U.S. OCEANS POLICY

HEARING

BEFORE THE

SUBCOMMITTEE ON OCEANS AND INTERNATIONAL ENVIRONMENT

OF THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

S. Res. 82

ENDORSING THE OBJECTIVES OF THE PRESIDENT'S OCEAN POLICY STATEMENT; AND RELATED LAW OF THE SEA MATTERS

JUNE 19, 1973

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U.S. OCEANS POLICY

TUESDAY, JUNE 19, 1973

UNITED STATES SENATE,
SUBCOMMITTEE ON OCEANS AND INTERNATIONAL
ENVIRONMENT OF THE COMMITTEE ON FOREIGN RELATIONS
Washington, D.C.

The subcommittee met, pursuant to notice, at 5 p.m. in room 4221, Dirksen Senate Office Building, Senator Claiborne Pell [chairman], presiding.

Present: Senators Pell and Case.

Senator PELL. The Subcommittee on Oceans and International Environment of the Foreign Relations Committee will come to order.

OPENING STATEMENT

Today the subcommittee is meeting to hear testimony on Senate Resolution 82, and the overall issues dealing with the current United Nations negotiations on the law of the sea.

Senate Resolution 82 is a measure endorsing the objectives envisioned in the President's ocean policy statement of May 23, 1970. These goals are now being pursued by the U.S. delegation to the United Nations Seabed Committee in its preparations for the Law of the Sea Conference tentatively scheduled for 1973.

This Seabed Committee has been meeting twice a year since 1970, and was recently enlarged to include 91 nations. Although this committee has made some headway on drafting articles on the regime of the seabed and on the preservation of marine environment, its overall progress has been disappointingly slow.

The vast range of questions concerning the limits of national jurisdiction to the sea and seabed, passage through straits, fishery rights and conservation measures, preservation of the marine environment, and the internationalization of the seabed beyond national jurisdiction, has created sharp differences in national policies, which are yet to be reconciled.

The time for dealing with these problems of ocean space is rapidly running out. We can see the possibility of national boundaries being extended further and further into the oceans, even beyond the 200-mile zone currently claimed by some nations.

If a comprehensive law of the sea agreement is not soon concluded, various jurisdictional conflicts might reach a point of no return. If this should occur, the ancient battles for the control of the seas will pale into insignificance compared to the forthcoming competition among nations to lay claim to the resources of the sea.

Without a common regime, the riches of the oceans would be dissipated in the same way as the conquerors wasted the wealth of the new

world. The oceans would become a watery wasteland in which enormous resources had been destroyed by man's greed. This would, indeed, be an incredible loss for all mankind.

The U.S. role in the past has been generally positive and constructive. The U.S. proposal for a treaty, submitted to the United Nations in 1970, provided the basis for a farsighted, equitable, and beneficial international agreement.

I was at that time, and I still am, particularly impressed by this proposal, which would create an international legal regime, and which would require, among other things, that a portion of the revenues derived from the exploitation of the seas "be used for international community purposes, particularly economic assistance to the developing countries."

An agreement similar to this proposal could mark a new era of international cooperation in the economic development of the poor nations.

I realize that the U.S. position, as well as the success of the entire Conference, is being jeopardized by the thrust of narrow nationalism. However, I hope that the U.S. postion will resist the shortsighted demands of some of our various industries, and continue to pursue the farsighted goals of the 1970 U.S. proposal. Such an agreement is essential, not only for the long-term interests of the United States, but for the overall welfare of the entire international community.

[Text of S. Res. 82 follows:]

[S. Res. 82, 93d Cong., 1st sess.]

RESOLUTION Endorsing the objectives of the President's ocean policy statement

Whereas the oceans cover 70 per centum of the earth's surface, and their proper use and development are essential to the United States and to the other countries of the world;

Whereas Presidents Nixon and Johnson have recognized the inadequacy of existing ocean law to prevent conflict, and have urged its modernization to assure orderly and peaceful development for the benefit of all mankind;

Whereas the United States Draft Seabed Treaty of August 1970 offers a practical method of implementing these goals;

Whereas a Law of the Sea Conference is scheduled to convene in November-December 1973, preceded by two preparatory meetings of the United Nations Seabed Committee;

Whereas it is in the national interest of the United States that this conference should speedily reach agreement on a just and effective ocean treaty: Now, therefore be it

Resolved, That the Senate endorses the following objectives, envisioned in the President's ocean policy statement of May 23, 1970, and which are now being pursued by the United States delegation to the Seabed Committee preparing for the Law of the Sea Conference—

(1) protection of—

(a) the freedoms of the high seas, beyond a twelve-mile territorial sea, for navigation, communication, and scientific research, and

(b) free transit through and over international straits;

(2) recognition of the following international community rights:

(a) protection from ocean pollution,

(b) assurance of the integrity of investments,

(c) substantial sharing of revenues derived from exploitation of the seabeds particularly for the benefit of developing countries,

(d) compulsory settlement of disputes, and

(e) protection of other reasonable uses of the oceans,

beyond the territorial sea including any economic intermediate zone (if agreed upon);

(3) an effective International Seabed Authority to regulate orderly and just development of the mineral resources of the deep seabed as the common heritage of mankind, protecting the interests of both developing and developed countries;

(4) conservation and protection of living resources with fisheries regulated for maximum sustainable yield, with coastal zone management of coastal and anadromous species, and international management of such migratory species as tuna.

SEC. 2. The Senate commends the United States delegation to the Seabed Committee preparing for the Law of the Sea Conference for its excellent work, and encourages the delegation to continue to work diligently for early agreement on an ocean treaty embodying the goals stated in section 1.

Senator PELL. Our first witness is Mr. Charles N. Brower, Acting Legal Adviser to the State Department.

I would extend my apologies and the committee's apologies to the witnesses. Just as today Mr. Brezhnev has occupied their time this morning, so he occupied our time this afternoon. In fact, I think I've seen more of Mr. Brezhnev than I ever have of Mr. Nixon in my whole life.

I do regret the delay, and I do thank my colleague for being here.

Senator CASE. Thank you, Mr. Chairman.

Senator PELL. Mr. Brower and Mr. Moore are from the State Department. Proceed as you will.

STATEMENT OF CHARLES N. BROWER, ACTING LEGAL ADVISER, DEPARTMENT OF STATE

Mr. BROWER. Thank you very much for affording us this opportunity to express our support of Senate Resolution 82. I welcome the opportunity to present the views of the executive branch on this resolution, which endorses the objectives of the President's oceans policy statement, and to provide an overview of the U.S. position in the law of the sea for negotiations referred to in that resolution. My colleague, John Norton Moore, Counselor on International Law, Department of State, and U.S. Representative to the March–April United Nations Seabed Committee session, will complement my statement with a review on the present status of the negotiations.

Mr. Chairman, we are aware of your longstanding personal commitment to the establishment of a rational legal order for the oceans. We know that other members of the subcommittee share that commitment. The importance of reaching an early multilateral agreement on ocean issues which affect important interests of virtually every country in the world can hardly be overstated. We are gratified that members of the Senate Foreign Relations Committee are closely following the law of the sea deliberations. We believe that continued close cooperation between the executive branch and the Congress is most desirable, particularly because the law of the sea is a subject which has many implications for international peace and stability.

TERRITORIAL SEA AND INTERNATIONAL STRAITS

Mr. Chairman, for nearly two centuries the United States has adhered to a 3-mile territorial sea. We protest through diplomatic channels extensions of the territorial sea beyond the 3-mile breadth. How-

ever, on August 3, 1970, President Nixon announced that the United States would, in the context of an overall law of the sea settlement, be prepared to agree to a 12-mile territorial sea provided that freedom of transit through and over international straits was guaranteed. The U.S. straits position is based on the fact that global communications require movement through and over straits and that an extension of the territorial sea from 3 to 12 miles would cause a large number of important international straits to become overlapped by territorial waters. Without a new legal concept insuring unimpeded transit through and over such straits, states could assert that the doctrine of innocent passage would be applicable. The doctrine of innocent passage is inadequate for it has been interpreted subjectively by some coastal states as to what is prejudicial to their "peace, good order, and security." The U.S. free transit proposal provides for a limited right—the right for a ship or an aircraft to pass from one end of an international strait to the other end. The United States and the international community as a whole have a fundamental interest in insuring the unimpeded flow of ocean communications and in maintaining the balance essential for world stability.

RATIONAL CONSERVATION AND ALLOCATION OF FISHERIES

Mr. Chairman, the rational conservation and allocation of fisheries resources is a matter of pressing concern to all states. The achievement of a widely acceptable accommodation on this subject is one of the most challenging tasks in the law of the sea deliberations. The United States has both coastal and distant water fishing industries. Consequently, these competing interests have resulted in balanced proposals to protect fishery resources off our shores as well as to insure equitable treatment for our fishermen operating off the coasts of other states.

International law presently permits the establishment of a 12-mile exclusive fishing zone; the area beyond is high seas open to all fishermen on an equal basis. In the law of the sea negotiations, we have proposed that coastal states be given management authority over all coastal stocks of fish off their coasts beyond the territorial sea and preferential economic rights over such stocks based on the coastal state's catch capacity. With respect to anadromous species—salmon being the principal example—we have suggested that coastal states of origin be authorized to exercise similar management responsibilities. These stocks spawn in coastal state streams and migrate far out to sea before returning to their place of origin. Jurisdiction over coastal and anadromous stocks would extend to the limits of the range of the species. The preferential rights of the coastal state over fisheries would be subject to international standards and compulsory dispute settlement procedures designed to insure conservation and maximum utilization of stocks, and a formula designed to balance expansions of the coastal state preference with traditional fishing rights of distant water states. Tuna and other highly migratory species which rove over vast expanses of the oceans would be regulated by international and regional arrangements which we believe would be the most effective means to manage and conserve such resources.

JURISDICTION OVER SEABED RESOURCES

Mr. Chairman, on August 10, 1972, the U.S. Representative to the United Nations Seabed Committee, John R. Stevenson, stated that the United States could accept virtually complete coastal state resource management jurisdiction over seabed resources in adjacent seabed areas if their jurisdiction were subject to international treaty limitations in five respects. These include international treaty standards to prevent unreasonable interference with other uses of the ocean, to protect the ocean from pollution, to protect the integrity of investment, some sharing of revenues for international community purposes, and compulsory settlement of disputes.

It is important to point out that all coastal state resource jurisdiction beyond the territorial sea—whether exercised over fisheries or seabed resources—would be subject to international treaty standards and compulsory dispute settlement in order to protect the interests of other States and the international community in general. We do not believe these interests can be adequately accommodated by completely exclusive coastal resource jurisdiction. Indeed the need to take the interests of others into account lies at the heart of the need to resolve these problems internationally. The United States has also proposed the creation of international machinery to authorize and regulate exploration and development of deep seabed resources. The United States believes that any international agency created by treaty should limit itself to licensing states or enterprises sponsored by states, inspecting and regulating their activities and collecting revenues for the international community. We do not believe that the international agency itself should undertake operations of deep seabed mining.

Most states seem to be in agreement on the need for an assembly for the seabed's organization in which all member states would participate, and for a small council which would exercise most of the rule-making and regulatory authority. The composition of this council is a critical issue and the United States has indicated that the interests of the industrially developed states, whose activities will be most affected, must be adequately protected in the structure and voting procedures of the council.

PRESERVATION AND PROTECTION OF MARINE ENVIRONMENT

Mr. Chairman, our commitment to affirmative action to insure the preservation and protection of the marine environment is well-known to this subcommittee. The U.S. draft seabed treaty proposes that the international seabed organization be given broad regulatory and emergency powers in order to prevent pollution arising from exploration and exploitation and from deep drilling in the seabed. In our view, this should extend to the establishment of environmental standards for seabed activities under coastal state jurisdiction as well, although the coastal state would, of course, be free to impose higher standards on such activities. We have made a number of suggestions with regard to the establishment of international standards for the prevention of pollution from vessels. The Intergovernmental Maritime Consultative Organization has extensive experience and expertise in dealing with

pollution from vessels, and it has been our policy to strengthen its role in this area.

In addition to the existing conventions which have been formulated under the auspices of IMCO, it is expected that the International Conference on Marine Pollution scheduled for this October in London, will consider a number of additional measures. These will include an attempt to prohibit all intentional discharges of oil wastes which could pollute the seas, further steps to minimize accidental oil spills, and expanded controls over hazardous cargoes other than oil. The United States has supported these measures as well as the proposal that all commercial tankers be required to carry an international tanker construction certificate. We hope that the October conference will act on that suggestion, including the requirement that port states verify possession of such a certificate. We have suggested in the law of the sea deliberations that all ships proceeding through areas in which international traffic separation schemes established by IMCO are applicable should be required to respect them in accordance with appropriately formulated and approved rules and procedures. We also believe that a standard of strict liability should be applicable to all vessels for accidents caused by deviations from such traffic separation schemes. In general, we believe that the Law of the Sea treaty should support and supplement IMCO's work by taking advantage of their technical expertise and detailed regulatory experience.

The chairman of the U.S. delegation to the October Marine Pollution Conference, the Honorable Russell E. Train, recently outlined before the IMCO Council the steps IMCO should, in our view, take to create, within its organizational structure, a new permanent body to coordinate and administer all IMCO activities concerning marine pollution.

He proposed the creation of a Marine Environment Protection Committee whose primary function would be to exercise the authority conferred on the organization to adopt and revise regulations under international conventions for the prevention and control of vessel-source pollution. Mr. Train stated that:

> The United States will propose in October that the Marine Pollution Conference adopt measures authorizing the new committee to act with respect to the regulations under the new vessel pollution convention. We will also urge the parties to the Ocean Dumping Convention to adopt a similar system. In essence, our proposal will be as follows:
>
> (1) With regard to marine pollution from vessels, the Marine Environment Protection Committee would be empowered to consider, develop, adopt, and communicate to the Governments new regulations under the conventions for which it was responsible or modifications to existing regulations.
>
> (2) Such new or modified regulations would enter into force on a date specified by the committee unless objections were received from a substantial number of States party to the relevant convention, including a designated number or category of States to insure a balance of maritime and coastal interests.
>
> Mr. Chairman, it will be in the development of this formulation that the protection of the particular interests of this country will be handled.

Mr. Chairman, it will be in the development of this formulation that the protection of the particular interests of this country will be handled.

> (3) The committee would be empowered to adopt and bring into immediate force appendexes to regulations, without further consideration by contracting states, when the action received the unanimous consent of those participating in the committee.

SCIENTIFIC RESEARCH IN THE OCEANS

In the U.S. view, fundamental oceanographic research is beneficial to all members of the international community and, accordingly, we believe that it is in everyone's interest to facilitate scientific research in the oceans. However, we recognize the right of the coastal state to regulate the conduct of scientific research within its territorial sea and to apply reasonable conditions and controls on such research. In the areas beyond the territorial sea of limited coastal state resources jurisdiction, the U.S. position is that there should be a minimum of interference with research. We believe that the United Nations Seabed Committee should consider specified criteria which would apply to research carried out in these areas, and which would combine global interests in maximum freedom of scientific research with adequate safeguards for coastal state interests. In addition, the United States has recognized the particular needs of developing states and stated that we are prepared to commit ourselves to finding means to insure broader participation by all countries in scientific research and in understanding its meaning.

SENATE RESOLUTION 82 SUPPORTED

Mr. Chairman, I have attempted to elaborate upon most of the major elements of the United States' oceans policy which Senate Resolution 82 contains in broad outline. We believe endorsement of this resolution would strengthen our attempts to insure the emergence of a new and rational order for the oceans responsive to modern needs.

We heartily support it and anticipate passage. My colleague, Mr. Moore, will now present a brief review of the status of the negotiations, which are about to recommence.

As I say, we would be pleased to answer questions at whatever time the Chair deems appropriate.

Senator PELL. Why don't you go ahead, Mr. Moore?

STATEMENT OF JOHN NORTON MOORE, COUNSELOR ON INTERNATIONAL LAW, DEPARTMENT OF STATE, AND U.S. REPRESENTATIVE TO THE MARCH/APRIL SEABED MEETINGS

Mr. MOORE. Thank you, Mr. Chairman.

It is a pleasure to appear before this subcommittee to provide a progress report on the Law of the Sea negotiations. I might add, it is a particular pleasure because both you, Mr. Chairman, and Senator Case, are both members of the delegation to the United Nations Seabed Committee, and have given us both your time and your interest.

From your personal interest and experience, Mr. Chairman, you know that this subject encompasses a broad array of issues which have long term consequences for the United States and the international community as a whole.

PREPARATORY SESSIONS AND CONFERENCE SCHEDULE

Since the General Assembly decided in 1970 to schedule a comprehensive Law of the Sea Conference, there have been five preparatory

sessions of the United Nations Seabed Committee. The sixth session will begin on July 2 and will continue until August 24. The Conference itself is currently scheduled to commence with an organizational session in New York in November and December of this year. Substantive negotiations are scheduled for April and May, 1974, in Santiago, Chile. The General Assembly has left open to possibility of an additional Conference session in 1975, if necessary.

LATEST PREPARATORY SESSION

The latest preparatory session was held at the United Nations in New York from March 5 to April 6. It was characterized by a business-like atmosphere and an increasingly clear commitment to holding to the Conference schedule. Agreement was reached on a variety of procedural matters to facilitate the negotiations and enable the Seabed Committee to concentrate on more substantive work. The Main Committee allocated the subjects and issues contained in the "list of subjects and issues" adopted at last summer's meeting. Subcommittee Nos. 1 and 3 will consider items specifically within their mandate and Subcommittee No. 2 will discuss remaining items on the list. More specifically, Subcommittee No. 1 will prepare draft treaty articles on the international regime and machinery for the seabed. Subcommittee No. 3 will deal with preservation of the marine environment, scientific research and transfer of technology. Subcommittee No. 2 will be addressing itself to a number of issues such as the territorial sea, straits, continental shelf, economic zones, and preferential rights beyond the territorial sea, the high seas, and the rights of landlocked, shelf-locked countries.

WORKING GROUPS

A total of four working groups are now in existence as two new working groups were established at the March-April session. The first working group was created in March, 1972 to deal with the seabed regime and machinery. A second working group was established in Subcommittee No. 3 to consider preservation of the marine environment. This session, after a great deal of discussion, a third working group of the whole was agreed upon in Subcommittee No. 2. Toward the end of the session, a fourth working group was created in Subcommittee No. 3 to consider marine scientific research and the transfer of technology.

U.S. INITIATIVE ON PROVISIONAL APPLICATION

An important U.S. initiative at the March-April meeting was a proposal for the provisional entry into force of the international regime and machinery for deep seabed development. Our letter of March 1, 1973 to the Chairman of the Foreign Relations Committee regarding deep ocean mining legislation, H.R. 9, was circulated to the Seabed Committee along with my statement introducing this proposal. Provisional entry into force under the U.S. proposal would permit the development of deep seabed resources to begin under the Convention after agreement had been reached at the Conference, but before the Convention had permanently entered into force. The

U.S. proposal was generally well-received with over 20 delegations commenting upon it. Of these, 17 expressed interest in pursuing the concept and no state was directly opposed to its consideration. In conjunction with our initiative on provisional application, we also proposed a study by the United Nations Secretariat of past instances where multilateral regimes had entered into force on a provisional basis. Our study suggestion was unanimously approved by the Main Committee and will be available for the use of the Seabed Committee at the upcoming July-August session.

ACTIVITIES OF WORKING GROUP IN SUBCOMMITTEE NO. 1

As noted above, the working group in Subcommittee No. 1 has been in existence longer than any other. An international regime and machinery for the seabeds area beyond national jurisdiction poses novel problems which required negotiations on a number of complex, technical matters. The working group has proceeded in an orderly fashion. During the fourth week of the last session, the second reading of draft treaty articles on seabed regime principles was completed. The attention of the working group was then directed to articles on international machinery for the seabed, and it is expected that the working group will continue drafting on that topic this summer.

TERRITORIAL SEA AND INTERNATIONAL STRAITS

Mr. Brower has discussed the U.S. position on the breadth of the territorial sea and unimpeded transit through and over international straits. At last summer's session, the Soviet Union submitted a draft article providing for freedom of transit of straits, and in March, they circulated a draft article providing up to a 12-mile territorial sea.

Eight states—Spain, Morocco, Philippines, Indonesia, Greece, Cyprus, Yemen, and Malaysia—submitted a draft article at the March-April meeting which does not differentiate transit in straits used for international navigation from innocent passage in the territorial sea. In fact, the draft articles defined innocent passage in a more restrictive manner than exists under international law. The United States expressed deep dissatisfaction with these draft articles and reiterated its strongly held position that U.S. vital interests require agreement on a 12-mile territorial sea coupled with free and unimpeded transit through and over international straits.

The acceptance of a 12-mile territorial sea continued to gather support at this session although many states attached conditions to acceptance of this figure, including broad coastal state economic jurisdiction beyond 12 miles. This broad coastal jurisdiction was often expressed in terms of an economic zone or a patrimonial sea.

FISHERIES

The United States continued to press for support of its species approach on fisheries. We delivered a detailed statement on the subject and circulated a working paper on the special management problems of tuna and anadromous fisheries. A number of important distant water fishing states continued their strong opposition to broad coastal

state jurisdiction over fisheries. Japan also stated its opposition to management of salmon by the coastal state of origin.

DRAFT ARTICLES CONCERNING TERRITORIAL AND PATRIMONIAL SEAS

Venezuela, with Mexico and Colombia as cosponsors, introduced draft treaty articles based on the Declaration of Santo Domingo. The declaration had been formulated by a group of Latin American countries, primarily in the Caribbean. The articles provide for a 12-mile territorial sea and patrimonial sea beyond this territorial sea up to 200 miles, in which the coastal state would control all revenues.

PRESERVING MARINE ENVIRONMENT AND PREVENTING MARINE POLLUTION

The Subcommittee 3 working group on marine pollution met on 15 occasions during the March-April sesssion and began drafting articles regarding preservation of the marine environment and the prevention of marine pollution. These articles focused on the general obligation of states to preserve and protect the marine environment, to adopt measures to prevent pollution, and to prevent damage to the marine environment.

The working group will also consider the particular obligation of states to adopt specific measures in connection with certain sources of marine pollution and their relation to generally accepted treaty standards, international cooperation, and technical assistance. The United States is committed to a final convention which fully protects the marine environment and we were pleased with the active work schedule of this working group.

The United States submitted a draft working paper on the need for exclusively international standards for the control of pollution from ships. During the later stages of the March-April session, the working group began a preliminary discussion of the issues raised by that paper.

MARINE SCIENTIFIC RESEARCH

The new working group on marine scientific research will begin its deliberations this July when it will also have to consider the question of transfer of technology. As a continuation of its promotion and sharing of information about scientific research, the United States spoke on the benefits derived from obtaining worldwide geological knowledge about the oceans and the president of the National Academy of Sciences emphasized the need to maintain freedom of fundamental oceanographic research.

The Soviet Union, with several cosponsors, submitted draft treaty articles on marine scientific research. Their 14 articles generally reflect a position of maximizing the freedom of scientific investigations in the oceans other than in the territorial sea or on the Continental Shelf.

HELPFULNESS OF PASSING SENATE RESOLUTION 82

Mr. Chairman, the coming 8 weeks will be important in laying the foundation for a timely and successful conference. The passage of Senate Resolution 82 would be most helpful in demonstrating to other

nations that both Congress and the Executive support the basic objectives of the United States' oceans policy.

Thank you.

Senator PELL. Thank you very much, gentlemen.

Out of deference to my colleague who has come here at this late hour, I am going to defer my own questions. I do have quite a few, but for the time being I will ask Senator Case if he would like to proceed with his questions.

Senator CASE. Thank you, Mr. Chairman, and gentlemen.

I join the chairman in apologizing for our holding you up.

QUESTIONS FOR THE RECORD

Because it is late, and the chairman has many questions and I do have to go, I am going to present my questions to you for answer in the record, if I may.

They deal in general with three areas. First, there's a general question about our position on pollution. There is some unhappiness that it seems to be limited chiefly to pollution from vessels, and the question is whether that should not be broadened.

Then I have a question about super ports and related matters beyond the 12-mile limit. Finally, I have some questions about the size of the delegation, whether it might be too weighted toward industry. In this connection, I would like to know whether we shouldn't broaden it in some respect to try to get a representation which would speak in a more comprehensive way for the United States.

I'll leave these questions, Mr. Chairman, if I may. In general, I don't mean to be critical. I think our desire is entirely to be constructive along the lines that I have indicated, and I know the chairman agrees.

I hope, as the Convention and Conference proceed, that we might be able to work constructively, and make just as strong a force for real development of the regulation of the oceans in the interests of everyone as it may possibly be.

Thank you very much.

Mr. BROWER. Thank you very much. We appreciate your interest and support. And we will be glad to supply the answers to those questions as quickly as we can.

[The information referred to follows:]

[Committee staff note. The following additional questions were submitted on June 21, 1973. The State Department replies were received on August 2, 1973.]

MR. BROWER'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR CASE

Question 1. What is the international legal basis for the President's recent proposal to construct superports beyond the U.S. territorial sea?

Answer. The construction and operation of the proposed deepwater port facilities by licensed U.S. citizens would be a reasonable use of the high seas in accordance with the international principle of freedom of the seas as recognized in the 1958 Convention on the High Seas. The Administration's bill makes clear that nothing in it should be deemed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the continental shelf. Other provisions throughout the Administration's bill are designed to

implement the fundamental approach that the construction and regulation of deepwater port facilities would be a reasonable use of the high seas.

Question 2. Will these superports be attached to the bottom?

Answer. We anticipate that, based on present technology, deepwater port facilities will be in contact with the seabed. In some cases this may be accomplished by means of anchoring or mooring. In others, more permanent attachment may be necessary. Future technological advances could, of course, make possible the construction of superports which are not in contact with the seabed.

Question 3. Will these superports be located beyond the 12-mile limit?

Answer. We expect that deepwater port facilities will be located beyond 12-miles from shore. Of course, the question of siting of such facilities would have to be studied on a case-by-case basis taking into account all relevant considerations.

Question 4. Is this proposal a unilateral assertion of territorial jurisdiction over an area of the high seas?

Answer. No, the Administration's bill does not imply any assertion of territorial jurisdiction over high seas areas. Instead, the United States would be exercising the international legal right to make use of the high seas, with reasonable regard to the rights of other high seas users.

Question 5. Will this proposal undermine our bargaining position at the Law of the Sea Conference?

Answer. No, the U.S. position on deepwater ports is consistent with international law and is rooted in community common interest.

Question 6. Has the U.S. made any efforts to seek multilateral agreements which would define and limit the scope of superport jurisdiction?

Answer. On July 18, 1973, the United States introduced a set of draft articles on the Coastal Seabed Economic Area. These articles, including Article 1, paragraph 3, deal with the rights and duties of coastal States regarding offshore installations such as superports. A copy of our statement and the draft articles is attached. It should be noted that the proposed superport legislation is based on the existing right of all States to make reasonable use of the high seas. Under the draft articles, we propose agreement on establishing an exclusive coastal State right to authorize and regulate the construction, use, and operation of superports in the Coastal Seabed Economic Area or the superjacent waters.

Question 7. Since the subject of "artificial islands and structures" has been placed on the list of items for consideration by the Law of the Sea Conference, has the U.S. prepared any draft articles dealing with the subject of superports?

Answer. See the answer to Question 6.

Question 8. If not, why?

Answer. See the answer to question 6.

Question 9. What is the U.S. position with respect to the standard of liability and the limitations on compensation for oil pollution damage caused by superports?

Answer. § 111(b)(1) of the Administration's draft deepwater port facilities bill provides for the application of selected sections of the Federal Water Pollution Control Act (Public Law 92–500), including sections relating to standards of liability and limitations on compensation. § 103(b)(1) of the Administration's draft requires a determination that applicants for deepwater port facility licenses are financially responsible and § 105(a) requires the submission of financial information to support such determinations. § 107(2) of the draft authorizes the Secretary of the Interior to require conditions in licenses to meet international obligations of the United States and, in § 107(3) to prescribe measures to prevent or minimize the pollution of water surrounding deepwater port facilities. With respect to the question of liability and compensation in connection with the Law of the Sea negotiations, our answer to question 13 is relevant.

Question 10. Recent articles criticized the U.S. Delegation as being too large and having too many industry representatives. Could you provide a list of the official Delegation that will be in Geneva this summer?

Answer. A copy of the current Delegation list to the July/August, 1973 U.N. Seabed Committee is attached. Both government and industry advisers do rotate their positions. Accordingly, the Delegation list is not yet complete, and the following persons are expected to be accredited at appropriate times in substitution for their counterparts on the list.

August Felando, General Manager, American Tuna Boat Association.
T. S. Ary, Vice President, Union Carbide Exploration Corporation, New York, N.Y.
George A. Birrell, General Counsel, Mobil Oil Corporation, New York, N.Y.
John G. Flipse, President, Deepsea Ventures, Inc., Gloucester Point, Virginia.
Robert B. Krueger, Nossaman, Waters, Scott, Krueger and Riordan, Los Angeles, California.
H. Gary Knight, Louisiana State University Law School.
Cecil J. Olmstead, Vice President, Assistant to the Chairman of the Board, Texaco, New York.
Robert Hallman, Environmental Defense Fund, Washington, D.C.
Marne A. Dubs, Director, Ocean Resources Department, Kennecott Copper Corporation, 161 E. 42nd Street, New York, N.Y.
John A. Knauss, Provost for Marine Affairs, University of Rhode Island, Kingston, Rhode Island.

It should also be pointed out that industry advisers are only some of the advisers drawn from the private sector. Marine scientists, international lawyers, and environmentalists are also represented as expert advisers from the private sector. We wish to maintain as open a process as possible and we believe that it is highly desirable to include representatives from the private sector as well as from the Congress.

Question 11. I understand that some of the industry advisers on the official Delegation rotate their positions with other members of their industry during the preparatory meetings. Is this correct?

Answer. See answer to question 10.

Question 12. Such a practice gives foreign Delegates the impression that the U.S. Delegation is much larger than it really is. This is both confusing and misleading. Foreign delegates can never be sure that they are talking to an official member of the U.S. Delegation or an industry observer. Is this rotation system necessary?

Answer. We believe that the function and role of the private experts is understood by the majority of other delegations, and in particular that they are not spokesmen for the United States Government. These experts have been of great value to the U.S. Delegation. They have been able to provide useful advice and their participation in these meetings has helped to give them a realistic understanding of the negotiations. We have found that the only way to assure continuous high caliber representation of the private sector is through a rotation system. The system of accreditation by dates, described in response to question 10, has been adopted to avoid giving the impression that the U.S. Delegation is larger than it is. After several weeks in Geneva, at the time this response was prepared, we believe this new system is working smoothly and we have encountered no difficulty.

Question 13. Why is it that the U.S. does not want the LOS Conference to take action on vessel pollution standards?

Answer. On July 19, 1973, the United States introduced a comprehensive set of draft articles on marine pollution in the U.N. Seabed Committee. A copy of these articles and our statement is attached. These articles are designed to supplement a few initial draft articles that were already prepared, with our active participation, by the Working Group on Marine Pollution of the Seabed Committee. Taken together, the draft articles deal both with land-based and marine-based sources of marine pollution, including vessel pollution. During the March meeting of the U.N. Seabed Committee we also circulated a working paper, which is attached, regarding vessel pollution standards. This working paper taken together with our articles expresses the United States position that the Law of the Sea Conference should ensure respect for international standards to deal with vessel pollution.

Virtually all governments, including the United States, recognize that the Law of the Sea Conference cannot itself prepare detailed standards. Thus, we have proposed that the actual promulgation of detailed standards for vessel pollution be the responsibility of the Intergovernmental Maritime Consultative Organization, and for that purpose have proposed the establishment of a new Marine Environment Protection Committee with regulatory responsibility. A copy of the statement by the Honorable Russell Train, Chairman of the Council on Environmental Quality, to the IMCO council on this matter introducing and explaining our proposal, is attached.

Standards with respect to the prevention of pollution from seabed exploration and exploitation are dealt with in our proposal of August 3rd, 1970, regarding the international seabed area, and in the draft articles on the coastal seabed economic area referred to in response to Question 6.

The draft articles on pollution prepared by the Working Group, as supplemented by the U.S. proposed draft articles, do deal with the general responsibility to control pollution of the marine environment from all sources, including land-based sources. It is, however, widely recognized in the Seabed Committee that the precise issues involved in attempting to deal in detail with the problem of land-based pollution are beyond the scope of the Law of the Sea Conference.

Article XXII of our draft pollution articles deals generally with the question of liability and compensation for pollution damage including, of course, damage arising from seabed activities. The footnote to that article raises the difficult question of the extent to which the law of the sea negotiations provide the appropriate forum to address the details of this issue. The draft treaty on the International Seabed Area which the U.S. tabled on August 3, 1970 suggested in certain provisions that there should be liability for seabed exploitation. These provisions are general in nature and the issues are complex.

Question 14. What is the LOS position on land-based pollution?

Answer. See answer to Question 13.

Question 15. What is the U.S. position with respect to compensation for damages for seabed exploitation activities?

Answer. See answer to Question 13.

Question 16. What is the U.S. position on the Canadian draft pollution articles?

Answer. The Canadian draft articles were a helpful initiative to try to organize and put before the committee the major issues that need to be dealt with in the law of the sea negotiations with respect to pollution. We share many of the views of the Canadian Delegation expressed in those articles, and in particular, their view that there should be international standards to control pollution from activities in the marine environment, and a system to ensure respect for those standards. However, we disagree with Canada on the question of coastal State standards for vessel pollution and pollution control zones. Our own views on this matter are set forth in the working paper and in the draft articles that were attached in response to Question 13.

Question 17. What efforts have been made to broaden the representation on the U.S. Delegation?

Answer. Public representation on the U.S. Delegation is drawn from the Department of State's Law of the Sea Advisory Committee. We believe that the members of this Committee are fairly representative of the broad range of public views and interests regarding the Law of the Sea negotiations. A list of Advisory Committee members and panels is attached. Our policy has been to permit interested panels representation on the delegation. We have made increased efforts to encourage such participation, and public advisors for the July/August session include members of the environmental panel, at least one of whom will be present at all times.

During 1973, representatives of the Department of the Treasury, the National Science Foundation, and the Council on Environmental Quality joined our delegation. These agencies are now represented at all times.

Question 18. Will any Government Environmental agencies be included on the official U.S. Delegation?

Answer. See answer to Question 17.

Senator PELL. Thank you very much.

TRANSITING OF STRAITS BY SUBMARINES UNDER INNOCENT PASSAGE DOCTRINE

First on this question of innocent passage versus free transit, let me ask you a couple of questions.

If a submarine is submerged, can it transit a strait under the doctrine of innocent passage, or does it have to surface?

Mr. BROWER. It is required to surface.

Senator PELL. It is required to surface under law?

Mr. BROWER. Yes.

Senator PELL. If it were not a military submarine, but a research submarine, like the one where these people have been killed lately, would it also have to surface?

Mr. BROWER. I am frank to say I have dealt with it only in the context of a warship. I'm not sure the answer to that is clear.

Mr. MOORE. Mr. Chairman, I believe the Convention on the Territorial Sea and the Contiguous Zone speaks of submarines surfacing with respect to innocent passage; so that under the present law or the doctrine of innocent passage, if that were to be applicable, even commercial submarines might have to navigate on the surface, rather than their normal mode, which might be far safer for example.

Senator PELL. There is also a technical question there. Sometimes submarines find it safer to transit submerged than on the surface, because of currents, reefs and other reasons that they can handle better submerged.

CAN AIRPLANES TRANSIT UNDER INNOCENT PASSAGE?

With regard to airplanes, can they transit under innocent passage or not?

Mr. BROWER. No.

Senator PELL. Commercial planes? Is that innocent passage?

Mr. MOORE. The doctrine of innocent passage has simply not been applied to aircraft, under the existing network of civil aviation conventions, most of the civil aircraft are accommodated, so that the principal problem, given the existing network of civil aviation conventions, is military aircraft.

We believe that the Law of the Sea Convention should also deal with the question and confirm the right of overflight by all aircraft, civil and military.

IMPORTANCE OF FREE TRANSIT CONCEPT TO U.S. NATIONAL INTEREST

Senator PELL. Why is the concept of free transit so important to our national interest?

Mr. BROWER. It has various aspects, Senator. First of all, there is a question of defense and strategic mobility. With the responsibilities and the defense posture that we have in the world, it is important for us to be able to move with relative freedom.

Beyond that, however, we also have a question of commerce, and any country such as ours is dependent to a very large extent upon freedom of commerce; ships need the right to travel back and forth and carry their cargoes.

The doctrine of innocent passage, subjectively interpreted by coastal states, would in some cases prevent the passage of commercial carriers, tankers, nuclear-powered vessels in the future, or vessels carrying other kinds of hazardous cargoes, or substances from transiting strait areas.

So it is not a question limited to one aspect of our position. It covers a whole range of defense and commerce interests; virtually every aspect of our life that depends upon or is touched by shipping.

OTHER NATIONS' RECEPTIVITY TO U.S. CONCEPT OF FREE TRANSIT

Senator PELL. How receptive are other nations to our concept of free transit?

Mr. BROWER. I think this is probably the area that, in some sense, is one of the least developed, and yet, in some ways, the most developed in terms of the positions taken by other states. As Mr. Moore indicated in his testimony, a proposal was tabled by eight countries at the last meeting in the spring, that would be quite clearly opposite of what we feel is appropriate on the question of straits.

The Soviet Union and other states, however, have been fairly close to our own position. There are a large number of states in various parts of the world, however, that have either not expressed themselves or at least not expressed themselves very vocally on this subject; or in some ways have indicated that they do not have a serious objection to a reasonable regime for straits, but want, before they agree to that, or go further down that road, to know how other issues are likely to be resolved.

Therefore, it has been somewhat difficult up to this point to get as clear a view of the sentiment in the various parts of the world, as we have on other issues.

Senator PELL. Is this principle a sticking point?

Have we taken the lead on the emphasis of free transit? What other nations support us on this?

Mr. BROWER. I think we are certainly known as being strong supporters of the principle of free transit of straits. Other countries in similar circumstances, I mentioned, the Soviet Union, in particular, have felt pretty much the same way, although there have been significant differences in the details of their draft articles and our draft articles.

Professor Moore might add something.

Mr. MOORE. Mr. Chairman, I would just add that the United Kingdom has been a very strong supporter of free transit through and over international straits. France has also supported the position.

I think it is fair to say that most states have simply not addressed the issue of transit of international straits very specifically at this point. And I think one of the principal reasons for that is that there has been a general preoccupation with the resource issues, particularly the resolution of those issues beyond the territorial sea.

The one point that I would like to make on this is that we feel very strongly that it is not only in our national interest, but that this proposal is strongly in the community common interest if all of us are going to be able to avoid conflict in the oceans. That is the principal purpose of this Convention and we want to avoid subjective and uncertain criteria.

All of us will benefit by the free flow of commerce, by a balance that takes account of the community of interest in navigation of these straits. So that we hope and have every expectation that in time the Seabed Committee and the nations in these negotiations will strongly support our position on free transit.

Senator PELL. I think a large part of these problems is the result of the nations not having focused and developed policies. One of the

factors here is then perhaps the draft treaty, which I pushed forward 5 or 6 years ago, that focused attention in our own Government very early on this issue.

And I congratulate the administration on the wonderful proposal they put forward 2 or 3 years ago.

U.S. RETREAT FROM TRUSTEESHIP PRINCIPLE FOR INTERMEDIATE ZONES

Why have we retreated on the trusteeship principle for the intermediate zones, which I felt was excellent?

Doesn't anybody else want it, or what was the reason?

Mr. BROWER. I'd like to defer for a minute to Professor Moore on this question, Mr. Chairman.

Mr. MOORE. Mr. Chairman, we still have the proposal on the table as our primary proposal. We have not retreated from that.

Senator PELL. You said in your statement that we have abandoned that view. I'm sorry. It was in the briefing memo.

I gather that we really have seemed to go a long way away from it.

Mr. MOORE. It is certainly true that the concept of the trusteeships, either because of the terminology used or because of the substance of the position, was not warmly embraced by most of the coastal nations participating in the negotiations. As a result, we have stressed the importance of international elements in this area beyond the 12-mile territorial sea with respect to seabed resources, and with respect to species of fish concerning the fishery issue.

Senator PELL. You haven't answered my question.

Why have we stated, as Mr. Brower says here in his statement, that we could accept virtually complete coastal state resource management jurisdiction, et cetera, if their jurisdiction were subject to international treaty limitations in five respects.

What is the political reason that we have abandoned the principle of the trusteeship concept?

Mr. BROWER. It's like the old song that goes, accentuate the positive and eliminate the negative; even the word trusteeship, as it has turned out, has had a negative colonialist flavor to it for some countries.

I think the President's ocean policy of May 29, 1970, which discussed the trusteeship principle, also set forth the five international standards of the provisions to which we referred. While I would not say that the only changes in language were the words that we used, there is a change in emphasis.

The reason for it, I think, in a large part is the realization of the negotiating imperatives and the possibilities; the substance of what we want, which is the application of those five principles, in the area under question, we are seeking to achieve, as we have sought before to achieve.

We think it is more acceptable to a larger number of States if it is emphasized as international standards and as a zone of broad coastal management jurisdiction, rather than being treated as a more international area in its basic essence.

U.S. INTERNATIONAL CONDITIONS CONCERNING COASTAL STATE RESOURCE MANAGEMENT JURISDICTION

Senator PELL. Would you give us in order the five different international conditions or have you stated them in the order of importance that you consider them to be to the United States in your statement?

Mr. Brower?

Mr. BROWER. I would not want to place them in order of importance. It's a little bit like apples and oranges. I think they are all of a considerable importance to us. Certainly, compulsory settlement of disputes has to be a fundamental aspect of any international regime such as this. If you do not arrange to resolve your differences in a peaceful way, you raise questions as to whether or not you really solve the problems that you tried to solve by adoption of the Convention in the first place.

I think protection of investment in the area is also a very important consideration, because it is difficult, of course, to mobilize the necessary capital and other resources to develop these areas. How can one downgrade the question of protection of pollution, which is one of the five? It's a different kind of problem, but it is an important problem, and so on.

Senator PELL. Hanging over me like a Sword of Democles, are a couple of votes which will be coming up in a little while; so we'll move quite hastily here. Could you submit for the record perhaps a fuller definition of each of the five criteria: What you mean about the protection of the oceans from pollution, what you mean about the integrity of investment, what you mean by the sharing of revenues for international community purposes, and possibly settlement of disputes.

[The information referred to follows:]

U.S. INTERNATIONAL TREATY STANDARDS CONCERNING COASTAL STATE RESOURCE MANAGEMENT JURISDICTION

[Supplied by Department of State]

1. *International treaty standards to prevent unreasonable interference with other uses of the ocean.*—A settlement based on combining coastal State resource management jurisdiction with protection of non-resource uses can only be effective if the different uses are accommodated. This requires internationally agreed standards pursuant to which the coastal State will ensure, subject to compulsory dispute settlement, that there is no unreasonable interference with navigation, overflight and other uses.

2. *International treaty standards to protect the ocean from pollution.*—As a coastal State, we do not wish to suffer pollution of the oceans from seabed activities anywhere. We consider it basic that minimum internationally agreed pollution standards apply even to areas in which the coastal State enjoys resource jurisdiction.

3. *International treaty standards to protect the integrity of investment.*—When a coastal State permits foreign nationals to make investments in areas under its resource management jurisdiction, the integrity of such investments should be protected by the treaty. Security of tenure and a stable investment climate should attract foreign investment and technology to areas managed by developing coastal States. Without such protection in the treaty, investment may well go elsewhere.

4. *Sharing of revenues for international community purposes.*—We continue to believe that the equitable distribution of benefits from the seabeds can best be assured if treaty standards provide for sharing some of the revenues from con-

tinental margin minerals with the international community, particularly for the benefit of developing countries. Coastal States in a particular region should not bear the entire burden of assuring equitable treatment for the landlocked and shelf-locked States in that region, nor should they bear the entire burden for States with narrow shelves and little petroleum potential off their coast. The problem is international and the best solution would be international. We repeat this offer as part of an overall settlement despite our conclusion from previous exploitation patterns that a significant portion of the total international revenues will come from the continental margin off the United States in early years. We are concerned about the opposition to this idea implicit in the position of those advocating an exclusive economic zone.

5. *Compulsory settlement of disputes.*—International standards such as those I described are necessary to protect certain noncoastal and international interests, and thus render agreement possible. Accordingly, effective assurances that the standards will be observed is a key element in achieving agreement. Adequate assurance can only be provided by an impartial procedure for the settlement of disputes. These disputes, in the view of my delegation, must be settled ultimately by the decision of a third party. For us then the principle of compulsory dispute settlement is essential.

CONSULTATION OF NEW ENGLAND FISHERMEN CONCERNING U.S. POSITION

Senator PELL. I have a particular problem here coming from a fishery state myself. I would like to focus particularly on the question of jurisdiction of the coastal fisheries, because that is a subject of prime concern in my own State, and all of New England.

In preparing the U.S. position, has the coastal fisherman in New England been consulted?

Mr. BROWER. Absolutely, Senator. In fact, they're represented on the Law of the Sea Advisory Committee to the Secretary of State. and they have participation in that and in the delegation to the preparatory sessions.

Senator PELL. Are they in agreement with the U.S. position?

Mr. BROWER. At the present time, as far as I am informed, the fisheries——

Senator PELL. I don't want you to be hasty here. I'm not sure they are in agreement.

Mr. BROWER. As I understand it, they are. But we are available for consultation at all times.

Mr. MOORE. Mr. Chairman, if I might add a word on that; we certainly do have major problems in fisheries off our northeastern Atlantic coast, as well as off the northwest coast of the United States.

I can sympathize with the problems that the fishermen of the area face. They are very real and the situation is a very difficult one.

With respect to these negotiations, the thrust of these negotiations is strongly to confirm coastal state resource jurisdiction over fisheries. particularly coastal species of fisheries beyond the 12-mile territorial sea. The basic differences are really between those countries that have advocated a species approach with preferential rights for the coastal states, so that the coastal fishermen will get anything up to their ability to catch; and those countries that have advocated an exclusive economic zone with an exclusive right for the coastal fisherman.

So certainly the thrust of these negotations is strongly to deal with their problem, and in fact, I think, it is the only forum that really offers an ability to multilaterally solve our problems with the other countries fishing off our coast.

Senator PELL. I will have to ask you to excuse me for a few moments for a vote. I will be back in about 15 minutes.

The subcommittee will recess temporarily.

[A brief recess was taken.]

Senator PELL. The subcommittee will come to order.

URGENCY OF SITUATION IN NORTHEAST ATLANTIC FISHERIES

How would you characterize the urgency of the situation in the Atlantic coast fisheries in the northeast Atlantic?

Mr. MOORE. Mr. Chairman, I think the situation is serious there. We have serious conservation problems there. Ambassador McKernan, who has been working very hard, both in the regional commission and the bilateral discussions, has been doing everything that he could in those forums.

We are in the North Atlantic Fisheries Commission now taking a very firm stand on the situation. I think that the real question is, what are the alternatives today. How do we deal effectively with the problem?

I strongly believe that the only way, in fact, to deal effectively with this problem, and to protect our interest as well as those of other countries, will be a multilateral solution at the Law of the Sea Conference. The reason for that is that if we try to act in the interim with some unilateral U.S. measure, we would be doing what we have decried throughout these negotiations. We feel it is very important to get international agreement. Persons fishing off our coast are really representatives of other nations. Unless we get agreement on their part to the regime that is going to emerge at this conference, it may simply be a breeding ground for conflict. We may not be aiding ourselves in any realistic sense.

On the other hand, I am confident that if we have a successful Law of the Sea Conference, and the timing on that—we are now thinking in terms of 1974, or at the latest, the summer of 1975—we will fully protect our coastal fisheries.

The United States, as other coastal states, would end up with broad resource jurisdiction including jurisdiction over coastal species of fish and anadromous fish beyond the 12-mile territorial sea.

I am very concerned about the existing situation. But the alternatives strongly suggest that the Law of the Sea negotiations are the best place to deal with that problem.

Senator PELL. My question was, how would you characterize the urgency of the situation? I would imagine your answer would be very urgent.

Mr. MOORE. I think the answer is very urgent.

Senator PELL. Thank you.

ECONOMIC CONDITION OF U.S. NORTHEAST COASTAL FISHERIES

Does the administration view the economic conditions of our northeast coastal fisheries as an emergency situation from the viewpoint of the livelihood of the fishermen involved, the need for some kind of help, the need for some kind of immediate conservation practices?

Haddock, you know, has almost completely disappeared.

Do you view it as an emergency situation?

Mr. Brower. I'm not exactly sure, Mr. Chairman, what the right word is to describe the situation. Certainly, it is one of some magnitude, one of some urgency, and one that the administration is aware of. I am not sufficiently qualified myself in the specifics of the fishing industry to say as a matter of conservation or economics exactly what degree on the scale of urgency or emergency has been reached.

But I can say as a policymaking official in the Administration in this area, that we are quite acutely aware of the existence of this problem, and of its urgency. Apart from the hearings in which we participate, we receive mail, we receive inquiries. We are quite aware, I think, of this particular problem, and are certainly watching it closely, and are very much concerned to see that the problem is cleared up in sufficient time; so that the industry can survive.

Senator Pell. Thank you.

I have four more very specific questions in this regard that I will submit to you at this time. They will appear in the record in this place.

[The information referred to follows:]

[Committee staff note. The following additional questions were submitted on June 21, 1973. The State Department replies were received on August 2, 1973.]

Questions Regarding Fisheries Posed by Senator Pell

Questions. Does the Administration view the biological condition of our Northeast fisheries as an emergency situation? Does the Administration believe there is an urgent need for action to protect fisheries resource of this area from practical extinction?

What I am trying ot find out with these questions is whether the Administration enters this crucial phase of the Law of the Sea negotiations with the view that a fisheries agreement protecting our fishery industry economically, and our fishery stocks biologically is merely a desirable goal, or does it view such an agreement as a vital necessity?

Do you have any estimates on how long some of our current fishery stocks in the Northeast coastal area can survive under current fishing pressures? What are those estimates? Will the United States argue the case for prompt agreement persuasively on these grounds—the need for protection of the resource?

As you know, I have long argued that the best way, in view of all the interests the United States has in law of the sea matters—the best way to manage and protect our fisheries is through international agreement. I have counseled the fishermen in my own state along this same line, and urged that they be patient. I believe, however, that the fishermen have a strong and valid argument when they say to me that an international agreement will be worthless if, by the time it is concluded, the fishery resource has been destroyed. I believe we are close to reaching the point at which further delay in reaching an effective agreement would in fact make an agreement worthless—because there may be no fish left to protect or to catch.

How would you answer this argument?

Answers. In our view, the biological condition of some of our Atlantic coast stocks is an emergency situation, and there is urgent need to strengthen conservation measures on these stocks. Under current fishing pressures, the overall decline will continue although the resources will not be completely depleted in the near future. Precise estimates cannot very well be given, as they vary for each stock, and depend upon a number of factors. These include seasonal variations in fishing, the amount and type of vessels and gear utilized, weather, and natural factors affecting mortality and distribution. Of the Atlantic coast stocks, haddock is in the worst shape, and ICNAF has recommended a zero haddock quota for 1974. Other stocks vary widely, but most are in varying degrees of depletion. We are seeking urgent action in ICNAF to deal with this problem, as the results of the ICNAF meeting in June were wholly inadequate.

The Administration is entering this phase of the Law of the Sea negotiations with the view that a fisheries agreement must provide both biological and economic protection for coastal fisheries. The problem posed off our New England coast is shared to varying degrees by many coastal nations around the world. It is clear that no overall Law of the Sea settlement would be possible that did not protect coastal fisheries to a very substantial degree, and that agreement on such protection is a necessity.

It is true that a new fisheries regime will not provide the required protection for either coastal or distant water fisheries if, by the time it is concluded, the fishery resource has been destroyed. However, we do not believe this need be the case. It is our assessment that a timely, effective result can be reached at the Law of the Sea Conference. Between now and that time we intend to work vigorously toward strengthened conservation measures in both bilateral and multilateral forums. We believe adequate protection can be achieved in the interim period to preserve those stocks which are in danger, and that hopefully the nations concerned will appreciate the long-range advantages of doing so on an urgent multilateral basis. In our view, unilateral action at the present time could hamper a timely and successful conclusion of the Law of the Sea Conference, thereby creating even more serious longrun problems.

Senator PELL. In the viewpoint of our fishermen, they feel forgotten and abused. I know. I went out myself with the fleet.

I was dropped by a basket from a helicopter, picked up again by a Coast Guard cutter. We went along side the Soviet fishermen. They did not let the boarding officer, the ensign, aboard.

I saw that, and the way the seas are covered by foreign fishing vessels. To see that in what has been traditionally our fishing grounds is a real shocker for those of us from that part of the country. I hope that you will focus on these questions as much as you can.

EFFECT OF INTERNATIONAL STANDARDS ON U.S. ENVIRONMENTAL SAFEGUARDS

On another subject, if exclusive international standards are applied to foreign vessels coming into American territorial waters, would it not be true that the environmental safeguards provided under our own existing legislation, including the Federal Waterways Safety Act, 1972, the Federal Water Pollution Control Act, and the Marine Resources Engineering and Development Act would be lost because international law would prevail over domestic law?

Mr. BROWER. I think, Mr. Chairman, with all due respect, that is not the case or not necessarily the case. The jurisdiction of the United States pursuant to existing legislation over its internal waters, the waters of the ports to which ships, I think in excess of 90 percent of the ships, of which enter our territorial waters enter, permit us to apply our standards in those cases.

There is relatively little transiting of our territorial waters by ships that are coming to or going from the U.S. ports. So I think, as a practical proposition, it is not a very serious problem.

In any event, the obligation for acceptance of the policy to try to develop international pollution control standards does not mean that we are not going to push for strong international standards. I think it is implicit and even explicit in the efforts which this administration has carried out in international forum in the last several years that we've been working for, and reasonably successful in obtaining, international agreement on high standards.

If a problem were to exist, we are working in the direction of solving the problem.

Mr. MOORE. Mr. Chairman, I wonder if I might add a word to that. There are two basic problems on the question of exclusively international standards in the areas that it would apply: one is beyond the territorial sea; and second is the question of whether it would apply as a position in these negotiations within the territorial sea.

With respect to beyond the territorial sea, of course, there is no conflict at all possible for any U.S. law because they simply do not apply to the Ports and Waterways Safety Act, or any others beyond our territorial sea. We have felt that there are a number of very strong reasons suggesting exclusively international standards: one is the uniformity problem; the second is the effective protection of the environment of simply not transferring pollution from one zone to another, and so forth.

We are considering the possibility of whether that approach should not be applied to innocent passage in the territorial sea as opposed to other kinds of passage through the territorial sea. There are three basic sources of standards. One would be international, with an international agency such as IMCO. One would be the flag state, where we have higher standards. Then, third would be a port state, where we could have, of course, higher standards as a condition for using that port.

As a practical matter, since 90 percent of the shipping that goes through our territorial sea is on the way to or from one of our ports, you would get essentially the same clout with domestic legislation, as the Ports and Waterways Safety Act, if it applied only to ships using your port.

One question that we have been exploring, and we have no final determination on any of this with respect to our position in these negotiations, is that it might be very helpful to differentiate between those using those ports and those ships in innocent passage through the territorial sea. In the latter case it would give coastal states the ability to have all kinds of possibly unreasonable ship construction standards simply for passage through your territorial sea.

Senator PELL. Thank you.

EFFECT OF INTERIM ACTIONS ON U.S. POLICY

As you know, there have been a number of interim actions, either proposed or actually adopted, providing for an establishment of unilateral American action on the Law of the Sea questions. Three good examples would be the legislative proposal for an interim U.S. policy on seabed, hard minerals; second, Senator Magnuson's recent legislative proposal for an interim extension of our fishery jurisdiction; third, we have the administration's action permitting U.S. leasing of oil rights beyond 200 meters subject to future international agreements.

What, in your view, is the effect of such interim proposals and actions on U.S. policy in the Law of the Sea Conference?

Mr. BROWER. Mr. Chairman, we have taken the position specifically in testifying on the mining bill, and we take the position generally that any unilateral extension by the United States of coastal jurisdiction, sovereign jurisdiction over what now exists, would have potentially

disastrous effects on the possibility of achieving a success at the Law of the Sea Conference.

I have had the opportunity to have some exposure to the attitudes of other countries. From the atmosphere in the international Conference, which has been going on in this area, it is quite obvious, whether one finds it right or wrong, it is nonetheless a fact, that foreign countries that have been roundly criticized—and I feel justly so—by the United States for unilaterally extending their jurisdiction to the detriment, not only of the United States but of the international community generally, would believe and feel that the United States in passing any other bills to which reference has been made, would be doing exactly that for which other countries have been criticized.

I think the result of the negotiations would be extremely negative, if not, as I said, potentially disastrous. With respect to the question of leasing, I think it is quite clear that that has been specifically within the policy, the oceans policy, of the President. And such activities as may take place there are clearly within the policy of being subject to the ultimate regime. We have not taken a position that is in any way inconsistent with what has been proposed with respect to the leasing of the oil area on the continental shelf.

Senator PELL. Actually, these actions are not particularly contradictory to Senate Resolution 82 because Senate Resolution 82 is a general statement of principles. I think that is the minimum and these other ideas are extensions of those principles.

Mr. BROWER. I understand Senate Resolution 82 to state and endorse the policy on the oceans of the President as it now exists.

Senator PELL. Which, as you pointed out, is different from a year ago, too, in connection with the intermediate zone.

Mr. BROWER. I do not think the fundamental policy has changed. I think some of the words may have changed for a variety of good and sufficient reasons. And I think the emphasis sometimes shifts, partly because of the emphasis of international attention, the attention focused by other countries on specific issues. They are more interested in some things than others at the present time.

We've talked more about some things than others. There has not been a change in the fundamental policy.

The Mining bill, H.R. 9, and the 200-mile territorial sea bill would be inconsistent with the present policy of the administration.

Mr. MOORE. Mr. Chairman, I would add briefly that in terms of the objectives of the sponsors of S. 1988 and H.R. 9 on deep sea mining, that the objectives certainly would be strongly aided by the passage of Senate Resolution 82. It is simply a question of the particular modality, and I would think the supporters of any of those measures would strongly support—I would hope that they could—Senate Resolution 82, in addition to whatever measures they themselves were supporting.

Senator PELL. This is what I hope and I trust it will be the case.

VALUE OF FISHERIES

Turning to our fisheries question again, will you submit for the record statistics that I've been trying to dig up unsuccessfully. Maybe you can give me your best estimate of the total value of the fisheries

off the northeast Atlantic coast, the gulf coast fisheries, the west coast fisheries, broken down by geographic area, and then divided between those portions that are coastal and those portions that are distant.

I would be very interested if you could furnish this. And also in this regard, could you furnish us the same statistic for 5 years ago?

Do you follow what I'm driving at?

Mr. BROWER. Yes, I do understand. We will do our best to obtain that information.

[The information referred to follows:]

LANDINGS OF FISH AND SHELLFISH BY U.S. FISHING CRAFT: BY SPECIES, BY DISTANCE CAUGHT OFF U.S. SHORES, AND CAUGHT IN INTERNATIONAL WATERS OFF FOREIGN SHORES, 1972 [1]

Species	Distance caught off U.S. shores						Caught in international waters off foreign shores		Total	
	0 to 3 miles		3 to 12 miles		Greater than 12 miles					
	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars
FISH										
Alewives:										
Atlantic and Gulf	27,814	601	----	----	----	----	----	----	27,814	601
Great Lakes	6,990	60	11,185	95	9,786	83	----	----	27,961	238
Anchovies	4,735	89	137,491	1,595	6,845	79	----	----	149,071	1,763
Bluefish	5,749	633	1,179	171	226	29	----	----	7,154	833
Bonito	6,515	496	5,182	389	144	10	11,014	826	22,855	1,721
Butterfish	805	197	315	72	500	126	----	----	1,620	395
Cod:										
Atlantic	2,697	320	15,015	2,337	28,378	5,202	164	28	46,254	7,887
Pacific	1,869	143	2,201	166	5,232	388	1,088	82	10,390	779
Croaker	5,586	476	10,791	1,311	403	51	----	----	16,780	1,838
Cusk	180	17	776	76	1,210	122	4	(2)	2,170	215
Flounders:										
Atlantic and Gulf:										
Blackback	2,820	453	5,401	933	12,072	2,977	3	1	20,296	4,364
Fluke	1,116	400	2,786	1,032	1,543	630	----	----	5,445	2,062
Yellowtail	5,350	598	7,129	1,072	59,705	10,933	2	(2)	72,186	12,603
Other	6,034	1,600	3,816	779	8,676	1,984	29	7	18,555	4,370
Pacific	3,860	398	21,765	2,318	24,533	2,413	2,127	234	52,285	5,363
Total	19,180	3,449	40,897	6,134	106,529	18,937	2,161	242	168,767	28,762
Groupers	277	75	1,285	337	5,649	1,473	423	98	7,634	1,983
Haddock	158	49	1,416	538	10,005	3,659	142	45	11,721	4,291
Hake:										
Pacific	4,183	42	1	(2)	5	(2)	----	----	4,189	42
Red	523	31	1,508	80	840	51	----	----	2,871	162
White	1,302	71	1,904	132	3,424	320	12	1	6,642	524
Halibut	2,950	1,437	6,332	3,122	17,506	8,573	46	21	26,834	13,153
Herring, sea:										
Atlantic	55,085	1,639	29,039	569	4,394	103	----	----	88,518	2,311
Pacific	13,448	1,150	----	----	----	----	----	----	13,448	1,150
Jack mackerel	12,672	532	16,474	692	23,654	993	----	----	52,800	2,217
Mackerel:										
Atlantic	2,107	191	1,455	78	1,025	92	----	----	4,587	361
Pacific	25	1	42	2	3	(2)	----	----	70	3

Menhaden:										
Atlantic	686,367	11,076	145,249	2,077	27	(2)			831,643	13,153
Gulf	921,473	15,036	179,237	2,920	6,414	105			1,107,124	18,061
Total	1,607,840	26,112	324,486	4,997	6,441	105			1,938,767	31,214
Mullett	31,848	2,700	1,000	87					32,848	2,787
Ocean perch:										
Atlantic	208	11	673	36	56,427	3,173	1,483	69	58,791	3,289
Pacific			417	25	2,773	172	6,562	394	9,752	591
Pollock	401	18	3,843	240	8,256	852	296	29	12,796	1,139
Rockfishes	1,425	92	13,668	839	13,276	820	2,170	161	30,539	1,912
Salmon:										
Chinook or king	19,562	10,829	6,085	3,883	2,480	1,561	121	91	28,254	16,364
Chum or keta	54,514	10,252							54,514	10,252
Pink	52,632	8,455	2,774	446			8	2	55,414	8,903
Red or sockeye	48,218	14,582							48,218	14,582
Silver or coho	21,179	7,936	6,824	3,439	2,222	1,246	60	36	30,285	12,657
Total	196,105	52,054	15,683	7,768	4,708	2,807	189	129	216,685	62,758
Sardine, Pacific	199	48	75	18	20	5			294	71
Scup or porgy	1,086	335	1,186	405	5,915	1,149			8,187	1,889
Sea bass:										
Black	199	54	408	124	2,447	741	92	21	3,146	940
White	504	177	31	11		(2)	264	92	800	280
Seat trout:										
Gray	13,239	1,119	2,483	285	118	8			15,840	1,412
Spotted	6,045	1,850	347	117					6,392	1,967
White	529	44	889	58	39	4			1,457	106
Sharks	283	30	317	31	55	5	30	4	685	70
Snapper:										
Red	143	138	823	445	5,872	3,507	1,734	848	8,572	4,938
Other	140	68	1,368	617	1,064	510	67	30	2,639	1,225
Striped bass	8,113	2,205	802	253	28	8			8,943	2,466
Tuna:										
Albacore			193	66	48,281	16,356	9,789	3,310	58,263	19,732
Bluefin	570	91	971	185	3,290	1,117	24,908	5,255	29,739	6,648
Little	20	3	11	2	2	1			33	6
Skipjack	106	23	3,258	704	7,680	1,659	77,400	14,787	88,444	17,173
Yellowfin	324	109	975	326	1,951	653	344,646	75,982	347,896	77,070
Total	1,020	226	5,408	1,283	61,204	19,786	456,743	99,334	524,375	120,629
Warsaw			16	3	145	22	29	4	190	29
Whiting	3,503	302	13,004	1,164	10,204	916			26,711	2,382
Wolffish	21	1	261	16	379	27	12	1	673	45
Other fish	219,901	24,101	100,436	7,936	31,470	2,703	816	105	352,623	34,845
Total fish	2,267,602	123,384	772,112	44,654	436,600	77,611	485,541	102,564	3,961,855	348,213

See footnotes at end of table.

LANDINGS OF FISH AND SHELLFISH BY U.S. FISHING CRAFT: BY SPECIES, BY DISTANCE CAUGHT OFF U.S. SHORES, AND CAUGHT IN INTERNATIONAL WATERS OFF FOREIGN SHORES, 1972 [1]—Continued

Species	Distance caught off U.S. shores						Caught in international waters off foreign shores		Total	
	0 to 3 miles		3 to 12 miles		Greater than 12 miles					
	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars
SHELLFISH ET AL										
Clams:										
Hard	16,336	18,501							16,336	18,501
Soft	8,769	5,252							8,769	5,252
Surf	8,169	943	16,848	1,914	38,424	5,074			63,441	7,931
Other	554	175							554	175
Total	33,828	24,871	16,848	1,914	38,424	5,074			89,100	31,859
Crabs:										
Blue, hard	145,349	14,194			7	(2)			145,356	14,194
Dungeness	19,219	8,356	7,648	3,495	50	20			26,917	11,871
King	14,802	5,179	44,406	15,538	14,802	5,179			74,010	25,896
Snow	4,349	608	24,645	3,448					28,994	4,056
Other	4,267	1,798	644	369	889	426			5,800	2,593
Total	187,986	30,135	77,343	22,850	15,748	5,625			281,077	58,610

Lobsters:										
American (Northern)	21,088	24,965	442	653	7,748	10,434			29,278	36,052
Spiny	1,404	1,518	2,201	2,267	612	630	8,182,	8,167	12,399	12,582
Oysters	52,546	33,819							52,546	33,819
Scallops:										
Bay	479	786							479	786
Calico			27	12	1,315	831			1,342	843
Sea	1,191	2,045	538	638	5,266	9,942			6,995	12,625
Shrimp (heads on):										
New England	7,055	1,344	7,810	1,469	9,661	1,785			24,526	4,598
South Atlantic	23,663	16,861	1,942	1,442	300	225			25,905	18,528
Gulf [3]	58,478	20,421	44,383	31,937	108,155	96,271	53,166	44,992	264,182	193,621
Pacific	49,649	2,017	44,415	3,002	11,967	1,625			106,031	6,644
Other	2	1							2	1
Total	138,847	40,644	98,550	37,850	130,083	99,906	53,166	44,992	420,646	223,392
Squid	19,619	605	2,355	198	1,175	182			23,149	985
Other shellfish	14,947	5,678	198	42	88	14	1	(2)	15,234	5,734
Total shellfish	471,935	165,066	198,502	66,424	200,459	132,638	61,349	53,159	932,245	417,287
Grand total	2,739,537	288,450	970,614	111,078	637,059	210,249	546,990	155,723	4,894,100	765,500

[1] Data include landings by U.S. flag vessels at Puerto Rico and other ports outside continental United States and Hawaii.

[2] Less than $500.

[3] Includes shrimp landed at Gulf coast and foreign ports.

Note: Statistics on landings are shown in round (live) weight of all items except univalve and bivalve mollusks such as clams, oysters, and scallops, which are shown in weight of meats, excluding the shell. Does not include production of artificially cultivated fish and shellfish.

U.S. COMMERCIAL LANDINGS BY STATES, 1971 AND 1972 [1]

State	1971		1972		Record landings	
	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars	Year	Thousand pounds
Alabama	[1] 36,727	[2] 14,141	[2] 39,564	[2] 18,326	1972	39,564
Alaska	449,089	84,504	390,137	80,733	1936	932,341
Arkansas	9,428	1,950	[3]	[3]	----------	[4]
California	585,484	87,172	639,764	91,898	1936	1,760,183
Connecticut	7,261	1,775	4,911	1,498	1930	88,012
Delaware	9,031	1,490	10,648	1,869	1953	367,500
Florida	173,904	45,154	176,271	55,711	1938	241,443
Georgia	18,409	7,478	17,544	6,802	1927	47,067
Hawaii	17,177	5,159	14,686	5,097	1954	20,610
Idaho	1,329	317	1,400	336	----------	[4]
Illinois	[2] 5,172	[2] 715	[2] 5,701	[2] 686	----------	[4]
Indiana	[2] 1,034	[2] 155	[2] 858	[2] 181	----------	[4]
Iowa	3,369	348	3,518	352	----------	[4]
Kansas	40	12	36	10	----------	[4]
Kentucky	[3]	[3]	[3]	[3]	----------	[4]
Louisiana	[2] 1,396,214	[2] 72,630	[2] 1,070,597	[2] 71,916	1971	1,396,214
Maine	142,619	31,068	149,271	34,819	1950	356,266
Maryland	72,680	18,441	67,636	18,261	1890	141,607
Massachusetts	273,064	45,970	248,035	48,052	1948	649,696
Michigan	19,137	2,671	14,213	2,985	1930	35,580
Minnesota	[2] 12,011	[2] 1,367	[2] 11,583	[2] 981	----------	[4]
Mississippi	[2] 397,605	[2] 13,380	[2] 260,216	[2] 11,897	1971	397,605
Missouri	773	148	790	150	----------	[4]
Montana	705	110	718	108	----------	[4]
Nebraska	174	12	179	13	----------	[4]
New Hampshire	1,296	841	1,442	1,133	----------	[4]
New Jersey	114,416	12,025	190,517	14,423	1956	340,000
New York	36,617	18,676	37,377	22,123	1880	[2] 335,000
North Carolina	143,475	11,227	175,410	11,827	1959	342,612
North Dakota	364	39	395	40	----------	[4]
Ohio	[2] 9,045	[2] 1,225	[2] 7,939	[2] 1,026	1936	31,083
Oklahoma	[3]	[3]	[3]	[3]	----------	[4]
Oregon	75,770	16,226	92,923	24,024	1970	98,089
Pennsylvania	451	46	357	111	----------	[4]
Rhode Island	84,553	12,398	16,376	12,443	1889	128,056
South Carolina	24,642	8,373	22,365	7,961	1965	26,611
South Dakota	3,013	235	3,159	253	----------	[4]
Tennessee	[3]	[3]	[3]	[3]	----------	[4]
Texas	[2] 168,682	[2] 70,037	[2] 117,000	[2] 85,011	1960	237,684
Virginia	488,981	21,937	663,845	25,992	1972	663,845
Washington	130,449	30,238	120,458	38,496	1941	197,253
Wisconsin	[2] 42,875	[2] 2,352	[2] 43,661	[2] 2,521	----------	[4]
Wyoming	----------	----------	144	[5]	----------	[4]
----------	[6] 12,335	[6] 1,158	[6] 18,756	[6] 3,535	----------	----------
Total	4,969,400	643,200	4,710,400	703,600	----------	----------

[1] Statistics on landings are shown in round (live) weight of all items except univalve and bivalve mollusks such as clams, oysters, and scallops, which are shown in weight of meats, excluding the shell.
[2] Catch in interior waters estimated.
[3] Data not available.
[4] Not determined.
[5] Less than $500.
[6] Data by State not available.

Note: Does not include landings by U.S. flag vessels at Puerto Rico or other ports outside continental United States and Hawaii. Does not include production of artificially cultivated fish and shellfish. Data are preliminary.

U.S. COMMERCIAL LANDINGS BY REGIONS, 1971 AND 1972

Region	1971		1972	
	Thousand pounds	Thousand dollars	Thousand pounds	Thousand dollars
New England and Middle Atlantic	668,364	124,135	728,098	136,232
Chesapeake	561,661	40,378	731,481	44,253
South Atlantic	255,203	41,306	284,168	44,309
Gulf	2,096,926	199,851	1,584,799	223,419
Alaska	449,099	84,504	390,137	80,733
Washington and Oregon	206,219	46,464	213,381	62,520
California	585,484	87,172	639,764	91,898
Great Lakes and Mississippi River	129,277	14,231	123,886	15,139
Hawaii	17,177	5,159	14,686	5,097
Total	4,969,400	643,200	4,710,400	703,600

Note: Data are preliminary.

QUANTITY AND VALUE OF LANDINGS AT CERTAIN U.S. PORTS, 1972

Port	Thousand pounds	Port	Thousand dollars
San Pedro, Calif	452,392	San Pedro, Calif	[1] 58,958
Sameron, La	394,500	Brownsville-Port Isabel, Tex	28,500
Pascagoula-Moss Point, Miss	205,000	Aransas Pass-Rockport, Tex	21,900
Dulac-Chauvin, La	183,000	New Bedford, Mass	18,333
Empire, La	134,000	San Diego, Calif	15,853
Morgan City, La	128,600	Kodiak, Alaska	15,299
Kodiak, Alaska	119,068	Freeport, Tex	15,200
Gloucester, Mass	113,268	Dulac-Chauvin, La	14,000
San Diego, Calif	72,110	Bayou La Batre, Ala	13,600
New Bedford, Mass	60,209	Cameron, La	11,200
Beaufort-Morehead City, N.C	56,919	Gloucester, Mass	9,773
Point Judith, R.I	50,031	Golden Meadow-Leeville, La	9,100
Golden Meadow-Leeville, La	37,900	Morgan City, La	8,100
Brownsville-Port Isabel, Tex	35,500	Empire, La	7,700
Rockland, Maine	30,900	Pascagoula-Moss Point, Miss	6,500
Cape May, N.J	28,966	Boston, Mass	5,859
Bayou La Batre, Ala	26,400	Point Judith, R.I	5,322
Aransas Pass-Rockport, Tex	25,900	Newport, R.I	4,909

[1] Record.

Note: Reedville, Va., Southport, N.C., Port Monmouth, N.J., and Intercoastal City, La., are not listed in the above table to avoid disclosure of private enterprise. Data are based on latest available information and are not intended to show the relative position of all ports in the United States. Record landings of 848,000,000 pounds of fish and shellfish were made in the San Pedro area in 1950.

PROPORTION OF FISH PRODUCED BY PRC THROUGH FARMING

Senator PELL. As long as I can ask for this information, is it correct to say that China produces 80 percent of its fish through farming within its territorial borders rather than fishing on the high seas?

Could you submit the answer to that for the record?

Mr. BROWER. I think we should submit the answer.

As far as I know, the People's Republic of China, to which you referred, does not have a really developed fishing—or certainly not a distant water fishing industry, not a highly developed one.

Senator PELL. I think you will find that they are the second or third largest fish consuming country in the world.

Mr. BROWER. Oh—fish consuming.

Senator PELL. Fish consuming.

Is it true that 80 percent of the fish consumed in China are produced through aquaculture in their own country?

FISH CATCH OF LEADING NATIONS

Maybe you can submit for the record the present estimates of the total amount of fish caught by each of the leading dozen nations.

Mr. BROWER. We would be glad to.

[The information referred to follows:]

Catch of fish, crustaceans, mollusks, and other aquatic plants and animals, by leading countries, 1956–71 (Live weight basis)

[Supplied by Department of State]

Year and country	*Million pounds*
1956:	
Japan	10,522
United States	6,574
China (Mainland)	5,838
Union of Soviet Socialist Republics	5,767
Norway	4,822

Catch of fish, crustaceans, mollusks, and other aquatic plants and animals, by leading countries, 1956–71 (Live weight basis)—Continued

[Supplied by Department of State]

Year and country	Million pounds
1957:	
Japan	11,921
China (Mainland)	6,878
United States	6,074
Union of Soviet Socialist Republics	5,580
Norway	3,849
1958:	
Japan	12,136
China (Mainland)	8,851
United States	5,960
Union of Soviet Socialist Republics	5,778
Norway	3,180
1959:	
Japan	12,972
China (Mainland)	11,067
United States	6,373
Union of Soviet Socialist Republics	6,076
Peru	5,101
1960:	
Japan	13,652
China (Mainland)	12,787
Peru	8,217
Union of Soviet Socialist Republics	6,726
United States	6,205
1961:	
Japan	14,794
China (Mainland) [1]	12,787
Peru	12,016
Union of Soviet Socialist Republics	7,165
United States	6,464
1962:	
Peru	15,793
Japan	15,139
Union of Soviet Socialist Republics	7,973
China (Mainland)	7,751
United States	6,554
1963:	
Peru	15,632
Japan	14,768
China (Mainland)	8,785
Union of Soviet Socialist Republics	8,768
United States	6,122
1964:	
Peru	20,550
Japan	14,001
China (Mainland)	10,505
Union of Soviet Socialist Republics	9,867
United States	5,773

See footnotes at end of tables.

Catch of fish, crustaceans, mollusks, and other aquatic plants and animals, by leading countries, 1956–71 (Live weight basis)—Continued

[Supplied by Department of State]

Year and country	*Million pounds*
1965:	
Peru	16,825
Japan	15,229
China (Mainland)	11,757
Union of Soviet Socialist Republics	11,243
United States	6,006
1966:	
Peru	19,499
Japan	15,657
China (Mainland)	12,414
Union of Soviet Socialist Republics	11,792
Norway	6,329
1967:	
Peru	22,484
Japan	17,307
Union of Soviet Socialist Republics	12,736
China (Mainland)	11,435
Norway	7,200
1968:	
Peru	23,271
Japan	19,113
Union of Soviet Socialist Republics	13,409
China (Mainland)	11,907
Norway	6,296
1969:	
Peru	20,378
Japan	18,989
Union of Soviet Socialist Republics	14,324
China (Mainland)	12,202
Norway	5,491
1970:	
Peru	27,807
Japan	20,536
Union of Soviet Socialist Republics	15,988
China (Mainland)	13,790
Norway	6,570
1971:	
Peru	23,394
Japan	21,815
Union of Soviet Socialist Republics	16,175
China (Mainland)	15,168
Norway	6,779

[1] Data are for 1960.

NOTE.—Data reflect latest information published in the various volumes of *Yearbook of Fishery Statistics*, Food and Agriculture Organization of the United Nations.

CATCH OF FISH, CRUSTACEANS, MOLLUSKS, AND OTHER AQUATIC PLANTS AND ANIMALS, BY COUNTRIES AND CONTINENTS, 1970 AND 1971

	1970[1]			1971		
	Thousand metric tons live weight	Million pounds live weight	Million dollars	Thousand metric tons live weight	Million pounds live weight	Million dollars
COUNTRY						
Japan	9,315	20,536	[2] 2,549	9,895	21,815	[2] 2,708
China, Peoples Republic of (mainland)	6,255	13,790	[2] 1,713	6,880	15,168	[2] 1,955
Union of Soviet Socialist Republics	7,252	15,988	[2] 1,305	7,337	16,175	[2] 1,480
Philippines	990	2,183	434	1,050	2,315	651
United States	[3] 2,755	[3] 6,074	613	[3] 2,767	[3] 6,100	643
Spain	1,499	3,305	378	1,499	3,305	[2] 378
Indonesia	1,249	2,754	[2] 342	1,250	2,756	[2] 355
India	1,746	3,849	341	1,845	4,067	342
France	764	1,684	287	742	1,636	315
Korea, Republic of	934	2,059	211	1,074	2,368	283
Thailand	1,448	3,192	286	1,572	3,466	261
United Kingdom	1,099	2,423	188	1,107	2,440	255
Italy	387	853	222	391	862	252
Norway	2,980	6,570	197	3,075	6,779	238
Pakistan	420	926	238	417	919	[2] 236
China (Taiwan)	613	1,351	179	650	1,433	209
Korea, North	800	1,764	[2] 190	800	1,764	[2] 190
Canada	1,389	3,062	187	1,289	2,822	186
Peru	12,613	27,807	187	10,611	23,394	[2] 172
Vietnam, South	517	1,140	[2] 142	588	1,296	[2] 167
South Africa, Republic of	1,555	3,428	[2] 181	1,084	2,390	[2] 144
Denmark	1,226	2,703	114	1,401	3,089	142
Germany, Federal Republic of	613	1,351	106	508	1,120	123
Malaysia	365	805	94	390	860	114
Brazil	515	1,135	[2] 103	515	1,135	[2] 103
Poland	469	1,034	[2] 81	518	1,142	[2] 100
Mexico	357	787	91	402	886	95
Netherlands	301	663	78	321	708	94
Vietnam, North	300	661	[2] 82	300	661	[2] 83
Burma	432	952	87	443	977	80
Portugal	498	1,098	77	498	1,098	[2] 77
Iceland	734	1,168	68	685	1,510	[2] 63
Germany, East	319	703	[2] 55	323	712	[2] 63
Sweden	295	650	48	237	522	47
Chile	1,179	2,599	[2] 32	1,179	2,599	[2] 32
Morocco	256	564	18	229	505	19
Angola	368	811	8	368	811	[2] 8
All others[4]	4,793	11,018	1,013	5,160	11,395	1,337
Total	69,600	153,440	12,525	69,400	153,000	14,000
CONTINENT						
Asia	26,380	58,157	[2] 7,225	28,160	62,082	[2] 8,096
South America	14,850	32,728	[2] 400	12,880	28,395	[2] 390
Europe	11,960	26,367	[2] 2,073	12,100	26,676	[2] 2,343
Union of Soviet Socialist Republics	7,250	15,983	[2] 1,305	7,340	16,182	[2] 1,480
North and Central America	4,870	10,736	[2] 943	5,010	11,045	[2] 1,068
Africa	4,080	8,995	[2] 475	3,750	8,267	[2] 500
Oceania	200	441	[2] 103	210	463	[2] 125
Total[5]	69,600	153,440	[2] 12,525.	69,400	153,000	[2] 14,000

[1] Revised.
[2] Estimated by National Marine Fisheries Service, Statistics and Market News Division.
[3] Includes the weight of clam, oyster, scallop, and other mollusk shells. This weight is not included in other U.S. catch statistics.
[4] Residual.
[5] Figures will not add to totals because of rounding and conversion.

Source: "Yearbook of Fishery Statistics, 1971," vol. 32, Food and Agriculture Organization of the United Nations.

CATCH OF FISH, CRUSTACEANS, MOLLUSKS, AND OTHER AQUATIC PLANTS AND ANIMALS, BY MAJOR FISHING AREAS, 1970 AND 1971 (LIVE WEIGHT)

Area	1970 [1]		1971	
	Thousand metric tons	Million pounds	Thousand metric tons	Million pounds
Marine areas:				
Pacific Ocean and adjacent areas	34,280	75,574	33,530	73,920
Atlantic Ocean and adjacent areas	23,560	51,940	23,320	51,411
Indian Ocean and adjacent areas	2,770	6,107	3,060	6,746
Total	60,610	133,621	59,910	132,077
Inland waters:				
Asia	6,390	14,087	6,780	14,947
Africa	1,170	2,579	1,220	2,690
Union of Soviet Socialist Republics	850	1,874	940	2,072
South America	240	529	240	529
Europe	240	529	240	529
North and Central America	130	287	110	243
Oceania	([2])	([2])	([2])	([2])
Total	9,020	19,885	9,530	21,010
Grand total [3]	69,600	153,440	69,400	153,000

[1] Revised.
[2] Negligible.
[3] Figures will not add to grand total because of rounding.

Source: Yearbook of Fishery Statistics, 1971, vol. 32, Food and Agriculture Organization of the United Nations

CATCH OF FISH, CRUSTACEANS, MOLLUSKS, AND OTHER AQUATIC PLANTS AND ANIMALS, BY SPECIES GROUPS, 1970 AND 1971 (LIVE WEIGHT)

	1970 [1]		1971	
	Thousand metric tons	Million pounds	Thousand metric tons	Million pounds
Herring, sardines, anchovies, et al	21,310	46,980	18,960	41,800
Cods, hakes, haddocks, et al	10,420	22,972	10,730	23,655
Miscellaneous marine fishes	8,050	17,747	8,560	18,871
Fresh water fishes	8,320	18,342	8,850	19,511
Redfish, basses, congers, et al	3,680	8,113	3,770	8,311
Mollusks	3,320	7,319	3,210	7,077
Mackerels, snooks, cutlass fishes, et al	3,150	6,944	3,270	7,209
Salmon, trouts, smelts, et al	2,090	4,608	2,160	4,762
Tunas, bonitos, billfishes, et al	1,610	3,549	1,600	3,527
Crustaceans	1,630	3,593	1,680	3,704
Flounders, halibuts, soles, et al	1,300	2,866	1,360	2,998
Miscellaneous aquatic plants and animals	957	2,110	997	2,198
Shads, milkfishes, et al	790	1,742	760	1,675
Sharks, rays, Chimaeras, et al	470	1,036	470	1,036
Jacks, mullets, sauries, et al	2,370	5,225	2,900	6,393
Sea cucumbers, sea urchins, et al	53	117	53	117
River eels	44	97	45	99
Sturgeons, paddlefishes, et al	20	44	22	48
Total [2]	69,600	153,440	69,400	153,000

[1] Revised.
[2] Figures will not add to totals because of rounding and conversion.

Source: Yearbook of Fishery Statistics, 1971, vol. 32, Food and Agriculture Organization of the United Nations.

ESTIMATED USE OF WORLD CATCH 1969 AND 1970

Manner used	Million pounds, live weight	
	1969	1970
Marketed fresh	39,683	41,887
Frozen	18,960	20,944
Cured	17,637	17,857
Canned	12,786	13,669
Reduced to meal and oil	47,399	56,217
Miscellaneous purposes	2,204	2,205
Total	138,669	152,779

Source: "Yearbook of Fishery Statistics, 1970," vol. 31, Food and Agriculture Organization of the United Nations. Revised data for 1970 and data for 1971 were not available when this publication went to press.

CRITICISM CONCERNING SIZE AND BALANCE OF U.S. DELEGATION

Senator PELL. Finally, we have this very different subject of the U.S. delegation. In the last meeting, there seemed to be far too many people. People were exchanging credentials back and forth, with industry representatives seeming to take a very active role. Other departmental representatives, besides those of State, were, also taking a very positive role.

Would you agree that the criticism of this is justified? If you don't, I would like to know your reason why you don't think it is.

Mr. BROWER. I am not sure that I agree the criticism is justified. In the case of the last meeting in New York, it was to a significant extent the product, I think, of one very industrious reporter for a couple of publications, although I agree there was some feeling on the part of some foreign delegations that there was a strong American presence in comparison to the size of the foreign delegations.

When you have a country of this size, responsibility and economic scope of the United States, as a party to negotiations, which in effect will establish the constitutional framework for 70 percent of the surface of the Earth, it stands to reason that a large number of people in government, as well as outside of government, will be interested in it. I think it is comparable with the number of people that have an interest in the subject matter. Sometimes one is inclined to wonder how the delegation can be helped in the size that it has had.

You have raised really two questions—overall size of delegation, and I understood you, Mr. Chairman, to raise the question of balance of the representation within the delegation. Perhaps, I might take the latter first, because I think it helps explain the former.

The nongovernmental members of the delegation substantially are people that participate also in the work of the Secretary of State's Advisory Committee on Law of the Sea. They do not only represent industry. Of course, there are members whose principal interest is the deep sea mining industry. There are also representatives whose principal interest is off-shore oil.

There are a significant number of representatives, however, including former Secretary of State Dean Rusk, his principal interest, his principal orientation, his principal reason for being on the Committee is an expertise and abiding interest in the development of international law on a rational basis to handle problems that exist. Such persons are

not tied in any way, or particularly identified with any segment of industry, or the economy.

There are a number of other distinguished international lawyers; Professor Baxter from Harvard, Professor Sohn, both of whom have sat on the Council of International Law in the Department; Professor McDougal of Yale Law School.

U.S. DELEGATES AND COMPARATIVE SIZE OF DELEGATION

Senator PELL. Why don't you submit for the record the list of our delegates which would show the people, including all of those that have any kind of credentials for getting in, that were on the United Nations list?

Also, you would illustrate my point that we have a large delegation compared to other nations. I would think you would find our list would be about three times longer than any of the delegations of the five permanent members of the Security Council, which have a strong interest.

[The information referred to follows:]

U.S. DELEGATION, GOVERNMENT, CONGRESSIONAL STAFF AND NON-GOVERNMENT OBSERVERS TO U.N. SEABED COMMITTEE

[Supplied by Department of State]

Attached are lists of the (1) accredited U.S. Delegation to the U.N. Seabed Committee, (2) U.S. Government observers, including individuals who rotate with accredited Government persons, (3) Congressional staff observers, and (4) non-governmental observers including individuals who rotate with accredited non-governmental persons. All of the non-Mission members of the Delegation included in list 1 have been issued regular U.N. Delegation passes and the individuals included in lists 2, 3, and 4 have been issued temporary U.N. passes. Both types of passes are valid only through the end of the current session (April 6).

Also attached (5) is the list of members of the U.S. Department of State's Advisory Committee on the Law of the Sea.

ACCREDITED MEMBERS OF U.S. DELEGATION TO THE U.N. SEABED COMMITTEE

Representative

John Norton Moore, Counselor on International Law, Office of the Legal Adviser, Department of State.

Alternate Representatives

Martin F. Herz, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State.

The Honorable Donald L. McKernan, Coordinator of Ocean Affairs and Special Assistant to the Secretary for Fisheries and Wildlife, Department of State.

The Honorable Christopher H. Phillips, Deputy U.S. Representative to the United Nations, New York.

Congressional Advisers

The Honorable Clifford P. Case, U.S. Senate.
The Honorable Warren G. Magnuson, U.S. Senate.
The Honorable Claiborne Pell, U.S. Senate.
The Honorable Ted Stevens, U.S. Senate.
The Honorable Donald MacKay Fraser, U.S. House of Representatives.
The Honorable William S. Mailliard, U.S. House of Representatives.

Senior Adviser

John R. Stevenson, Chairman of Advisory Committee on Law of the Sea, Washington, D.C.

Advisers

John Albers, Chief Geologist, U.S. Geological Survey, Department of the Interior.

C. P. Ake, Commander, USN, Office of the Joint Chiefs of Staff, Department of Defense.

Burdick H. Brittin, Deputy Coordinator of Ocean Affairs, Department of State.

James H. Doyle, Jr., Rear Admiral, USN, Office of the Joint Chiefs of Staff, Department of Defense.

John A. Dugger, Office of the Assistant Secretary of Defense for International Security Affairs, Department of Defense.

Otho Eskin, Bureau of International Organization Affairs, Department of State.

Frank Fedele, Colonel, USAF, Law of the Sea Task Force, Department of Defense.

Stuart P. French, Office of the Assistant Secretary of Defense for International Security Affairs, Department of Defense.

Herbert A. Larkins, Office of International Affairs, NOAA, Department of Commerce.

Terry L. Leitzell, Office of Assistant Legal Adviser of Ocean Affairs, Department of State.

Stuart H. McIntyre, Deputy Director Office of United Nations Political Affairs, Department of State.

Robert E. McKew, U.S. Mission of the United Nations.

Myron H. Nordquist, Office of Assistant Legal Adviser for Ocean Affairs, Department of State.

Bernard H. Oxman, Assistant Legal Adviser for Ocean Affairs, Department of State.

The Honorable Howard W. Pollock, Deputy Administrator, NOAA, Department of Commerce.

Leigh S. Ratiner, Director, Office of Ocean Resources, Department of the Interior.

Miss Rozanne L. Ridgeway, Bureau of Inter-American Affairs, Department of State.

George Taft, Office of the General Counsel, NOAA, Department of Commerce.

William N. Terry, Director, International Affairs, NOAA, Department of Commerce.

Miss Rebecca Wright, Office of the Director for Ocean Resources, Department of the Interior.

Norman A. Wulf, Office of General Counsel, National Science Foundation.

Paul A. Yost, Captain, USCG, Office of the Chief Counsel, Department of Transportation.

Experts

Marne Dubs, Kennecott Copper Corp., New York, N.Y.

Jacob J. Dykstra, Point Judith Fishermen's Cooperative, Point Judith, R.I.

August J. Felando, American Tuna Boat Association, San Diego, Calif.

John A. Knaus, Ph.D., Professor of Oceanography and Dean of the Graduate School of Oceanography, University of Rhode Island.

Cecil Olmstead, Texaco, Inc., New York, N.Y.

Louis Sohn, Bemis Professor of International Law, Law School of Harvard University.

U.S. GOVERNMENT OBSERVERS, INCLUDING INDIVIDUALS WHO ROTATE WITH ACCREDITED GOVERNMENT PERSONS

LCDR James Brown, U.S. Coast Guard.

Dr. Conrad Cheek, Department of Defense.

Mr. Robert Friedheim, Center for Naval Analysis.

Dr. Vincent McKelvey, Department of the Interior.

Mr. Edward Sanders, Department of Treasury.

CONGRESSIONAL STAFF OBSERVERS

Bob Boettcher, Grenvile Garside, Max Gurenberg, Pete Heyward, John Hussey, David Keaney, Dennis Maloney, Bill Mills, Bill Rountree, Dick Sharwood, Jack Vanderberg, and Bud Walsh.

NON-GOVERNMENTAL OBSERVERS INCLUDING INDIVIDUALS WHO ROTATE WITH ACCREDITED NON-GOVERNMENTAL PERSONS

Mr. William T. Burke, Prof. of Law, University of Washington.
Mr. Charles R. Carry, Exec. Dir., Tuna Research Foundation, Inc.
Mr. Thomas Clingan, Jr., Prof. of Law, University of Miami.
Mr. Paul M. Fye, President, Woods Hole Oceanographic Institute.
Mr. Richard L. Gardner, Prof. of Law, Columbia University.
Mr. Richard Greenwald, Counsel, Deep Sea Ventures.
Mr. G. Winthrop Haight, Forsyth, Decker and Murray.
Ms. Ann Hollich, Prof., Johns Hopkins University.
Mr. H. Gary Knight, Prof., Louisiana State University.
Mr. Robert B. Krueger, Nossaman, Waters, Scott, Krueger & Riordan.
Mr. William Utz, Shrimp industry representative.
Mr. Lowell Wakefield, Wakefield Seafoods, Inc.
Mr. W. V. Yonker, V.P., Assoc. of Pacific Fisheries.

U.S. DEPARTMENT OF STATE'S ADVISORY COMMITTEE ON THE LAW OF THE SEA

Public Chairman, John R. Stevenson.

I. Petroleum Subcommittee

Mr. George A. Birrell, General Counsel, Mobil Oil Corp.
Mr. Melvin Conant, Exxon Corp.
Mr. G. Winthrop Haight, Forsyth, Decker & Murray.
Mr. Minor S. Jameson, Jr., Independent Petroleum Association of America.
Mr. William J. Martin, Jr., Standard Oil.
Mr. Bryon E. Milner, Vice President, Products Division, Atlantic Richfield Co.
Mr. Cecil J. Olmstead, Vice President, Assistant to the Chairman of the Board, Texaco.
Mr. Richard Young, Attorney and Counsellor at Law, Van Hornesville, N.Y.

II. Hard Minerals Subcommittee

Mr. T. S. Ary, Vice President, Union Carbide Exploration Corp.
Mr. Willard Bascome, Chairman of the Board, Ocean Science and Engineering, Inc.
Mr. Seymour S. Bernfeld, Attorney at Law.
Mr. Paul S. Bilgore, Assistant General Counsel.
Mr. Marne A. Dubs, Director, Ocean Resources Department, Kennecott Copper Corp.
Mr. John E. Flipse, President, Deepsea Ventures, Inc.
Mr. George F. Mechlin, Vice President, Westinghouse Electric Corp., Oceanic Division.
Mr. John L. Shaw, International Nickel Co., Inc.

III. International Finance and Taxation Subcommittee

Mr. Kenneth E. Hill, Eastman Dillon, Union Securities & Co.
Mr. John A. Redding, Continental Bank, Chicago.
Mr. John G. Winger, Vice President, The Chase Manhattan Bank, N.Y.

IV. International Law and Relations Subcommittee

Mr. R. R. Baxter, Harvard University Law School.
Mr. Thomas Clingan, Jr., University of Miami, School of Law.
Mr. Arthus H. Dean, New York.
Mr. Richard L. Gardner, Columbia University, School of Law.
Mr. Philip C. Jessup, Pinefield off Windrow Road, Norfolk, Conn.
Mr. H. Gary Knight, Louisiana State University, Law School.
Mr. Robert B. Krueger, Nossaman, Waters, Scott, Krueger and Riordan.
Mr. John G. Laylin, Covington and Burling.
Mr. Myres S. McDougal, Yale Law School.
Mr. Benjamin Read, Woodrow Wilson International Center for Scholars.
Mr. Charles S. Rhyne, World Peace Through Law Center.
Mr. Dean Rusk, The University of Georgia School of Law.
Mr. Louis B. Sohn, Law School of Harvard University. .

V. Marine Environment Subcommittee

Mr. Richard A. Frank, Center for Law and Social Policy, Washington, D.C.
Mr. Bostwick H. Ketchum, Woods Hole Oceanographic Institution.
Mr. Anthony W. Smith, Attorney at Law, Washington, D.C.
Mr. George M. Woodwell, Brookhaven National Laboratory.

VI. Fisheries Subcommittee

Mr. Charles R. Carry, Executive Director, Tuna Research Foundation, Inc.
Mr. J. Steele Culbertson, Director, National Fish Meal & Oil Association.
Mr. Philip A. Douglas, National Wildlife Federation.
Mr. Jacob J. Dykstra, Pt. Judith Fishermen's Coop. Association.
Mr. August J. Felando, American Tuna Boat Association.
Mr. Harold E. Lokken, Seattle, Wash.
Mr. Robert G. Mauermann, Executive Secretary, Texas Shrimp Association.
Mr. William R. Neblett, Executive Director, National Shrimp Congress, Inc.
Mr. John J. Royal, Secretary/Treasurer, Fishermen and Allied Workers' Union, Local 33 I.L.W., San Pedro, Calif.
Mr. Richard H. Stroud, Executive Vice President, Sport Fishing Institute.
Mr. Lowell Wakefield, Wakefield Seafoods, Inc.
Mr. W. V. Yonker, Executive Vice President, Association of Pacific Fisheries.

VII. Marine Science Subcommittee

Mr. William T. Burke, University of Washington School of Law.
Mr. John C. Calhoun, Jr., Texas A. & M. University.
Mr. L. Eugene Cronin, University of Maryland.
Mr. Paul M. Fye, Woods Hole Oceanographic Institute.
Mr. Bruce C. Heezen, Lamont-Doherty Geological Observatory of Columbia University.
Mr. John A. Knauss, University of Rhode Island.
Mr. Roger Revelle, Harvard University.
Mr. Warren Wooster, Scripps Institution of Oceanography.

Governors

Governor William A. Egan, Alaska.
Governor Linwood Holton, Virginia (Represented by: Alexander Gilliam).

VIII. Maritime Industries Subcommittee

Mr .William J. Coffey, American Institute of Merchant Shipping.
Mr. Herman E. Denzler, Jr., New Orleans, Louisiana.
Mr. Emmett A. Humble, Humble Oil & Refining.
Captain Warren G. Leback, Interstate Oil Transport Co.

Mr. BROWER. It will be larger than others, but you have to keep in mind, Mr. Chairman, that it's easy to have a small delegation. You can have an extremely small delegation.

The question is what you want to do with the negotiations, how much of a role do you want to play. Does the United States really want to play a significant role, which I think it necessarily must, in bringing about a rational legal order for the oceans for many, many years in the future?

The United States has taken a very active role in these negotiations from the very start. We have tabled articles on many subjects. In most cases, we were the first people to do it; we tabled a whole treaty on the seabed exploration.

Senator PELL. An excellent treaty.

Mr. BROWER. I think while there is some sentiment abroad in the country today for a less active role on the part of the U.S. Government overseas, certainly this is an area by virtue of our position, our diversity of interest, and our experience, we are able to play a very constructive role. It can only be done with the support, not only of this

body and of the legislative branch in general, all parts of government, but also the support of those whose interests will be affected out in the country.

I think it is necessary to have a certain number of people available to consult and work on it and participate.

POSSIBILITY OF REDUCING U.S. DELEGATION

Senator PELL. This might be one of the drawbacks of a democracy. In order to get a general consensus, we need participation by everybody involved. It would seem to me that some steps should be taken so that when we turn up in Geneva or Chile or Vienna, that our delegation perhaps should not be twice as large, or three times as large as all the other nations. It usually is.

Do you feel it can be reduced?

I would be very interested in your thinking that we should have a larger delegation than anybody else because of the necessity of getting a consensus of American public opinion behind you.

Mr. BROWER. You do have to distinguish what is necessary to have on the floor, in the meeting rooms during the conferences.

Senator PELL. I am talking about those that appear on the list.

Mr. BROWER. I feel, and I know that it is generally the policy of the Department to try to hold delegations to as small a number as possible, and still be reasonably consistent with the achievements of the goals of the delegation that is being dispatched in the first place. Whether or not this particular delegation can be reduced or its growth held in check, I think remains to be seen.

We are very conscious of the phenomenon that you allude to, and we certainly do not want to injure our chances of achieving successful negotiations by being overwhelming in our presence; but I do think that it is necessary to have a significant number of people participating in this process and available for the work and the consultation.

Professor Moore, who has firsthand experience with this in New York, might be able to add to those views.

Mr. MOORE. Mr. Chairman, I think you identified the dilemma very well. The dilemma is, on the one hand, trying to keep down the size of the delegation because ours is substantially larger than many other delegations, in fact, any of the other delegations listed. The dilemma, on the other hand, is trying to maintain a completely open process in these law of the sea negotiations.

We have a responsibility to be responsive in three different areas. First, completely within the executive branch, so that the concerned agencies, environmental agencies and others, are represented. Second, between Congress and the executive branch. I hope that we do not in any way consider cutting the congressional representation on the delegation. I think it is extremely helpful. Third, with respect to the private sector, we have not only industry representatives in this group, but also we have other representatives from, for example, the international legal community and the scientific community. We are moving strongly at least to add one additional expert category to the delegation for the summer meeting, which will be an environmental category.

In fact, we did learn some things from this session, in terms, of the arrangement of the delegation, and I think one of those is that even though we felt that we were trying very hard to have a complete environmental representation—in fact, it was represented—we plan to move even more strongly on this occasion to increase the environmental representation. We are adding one governmental, environmental slot that will be filled by a Representative from the Council on Environmental Quality.

Second, we are adding a private expert slot that will be filled on a rotating basis by a private environmental expert. A second problem that we have that I hope that we have learned from is the question of making it very clear in each of the expert categories, that when we have a rotational basis in those categories, we are clear on who in fact those people are. When the full list is published, all other delegations should know who is on the U.S. delegation even if they must be identified by the dates when they will be in that capacity.

Senator PELL. Limiting the number on the floor would be a good idea. You would have to be pretty rough about it, that there should never be more than five or seven American bodies on the floor. I would think that might be a good idea to do that.

AD HOC INTERIOR-COMMERCE COMMITTEE ON HARD MINERALS

Are you aware of an ad hoc Interior-Commerce Committee on Hard Minerals?

Mr. MOORE. Yes, I am aware of it. I learned about it only the last few days.

Senator PELL. If so, would you submit for the record who the members are, what is its purpose, and does it have a charter issued under authority of the Federal Advisory Committee Act?

Mr. MOORE. We would be pleased to do that.

[The information referred to follows:]

AD HOC INTERIOR-COMMERCE COMMITTEE ON HARD MINERALS

The Interior/Commerce Committee to which you refer was established by the Department of the Interior under the chairmanship of Mr. Leigh Ratiner, Director for Ocean Resources, Department of the Interior, and a member of the Law of the Sea Task Force. Based on its consultations, it reported to the Law of the Sea Task Force.

A variety of personnel from the Departments of Interior and Commerce have participated on behalf of the U.S. Government. Consultations with commercial interests have been held during the past 18 months in order to obtain technical information about the ocean mining industry. The information was needed to evaluate pending legislation before Congress (S. 1134/H.R. 9) and portions of the draft seabeds treaty proposed in the UN by the United States on August 3, 1970.

Companies which have been consulted include Kennecott Copper, Hughes Tool (now Suma Corporation), American Metal Climax, Westinghouse, and Tenneco, Inc. (Deepsea Ventures); International Nickel has also been invited to consult but has declined to do so.

The Committee does not have a charter issued under authority of the Federal Advisory Committee Act. Its membership is exclusively governmental. If it should become advisable, in our opinion, to establish a Committee which includes membership from the nongovernmental sector, we would, of course, expect to comply with the Federal act just as we have done with the Public Advisory Committee on the Law of the Sea.

LACK OF PRINCIPAL NEGOTIATOR QUESTIONED

Senator PELL. I am shocked to realize that you're going to start out in a conference in 2 weeks and the principal negotiator is yet to be named. To my mind, maybe this is one more fallout from the constipation of Government that has resulted from the Watergate.

Also, I would hope that it is not a sign of a lack of interest in the executive branch in this very important 70 percent of the earth. I really think it's a disgrace that you are going into a meeting in 2 weeks without a principal negotiator named.

As of now, who is the principal negotiator? If nothing more is done, would it be Mr. Moore? You, Mr. Brower?

Mr. BROWER. You are correct at the present time, the principal negotiator has not been named. I'm not in a position to anticipate it at the present time.

I do want to emphasize the fact that this does not betray in any sense a downgrading of the Law of the Sea within the administration or lack of attention to it. In a way, it's a byproduct of increased attention, quite frankly.

I can say from my own experience, I have had a number of discussions with the Secretary of State and the Deputy Secretary of State and others in the Government on the subject of the Law of the Sea, and there is a very high level of interest within the Government, and not only the State Department, obviously, but in many agencies.

Secretary Rogers for one has been concerned that we be represented in the best possible way, at the highest possible level at the Law of the Sea Conference, and to the extent possible the preparatory session this summer. I would hope myself, personally, that we would be in a position to make an announcement at this time. Let me say only, that one is, I believe, in the works. I am confident that we will be properly represented this summer, and thereafter.

Senator PELL. I don't want to breach your confidence. I think both of you and I are aware of who is being considered. I still believe it is really pretty disgraceful that we do not have 2 weeks prior to going to the Conference a chief of delegation that is able to sit down with all of you and be brought up to date on it.

You do an excellent job, as you should as Counsel for the State Department, in defending the administration. The fact that no one has been appointed is either constipation of Government, no matter what the reason is, or a lack of interest. Probably, I think, charitably we'll say, it's the former and not the latter.

In any case, the result is very harmful, I think, to the American position. I would hope that this view of the committee would be expressed to the executive branch.

Mr. BROWER. I am keenly aware of the problems that you described, Mr. Chairman. I will do everything in my power to communicate the interest of the committee, and do what I can to rectify the situation.

PERSONS IN CHARGE OF U.S. DELEGATION IN U.N. SEABED SUBCOMMITTEES

Senator PELL. Who will be the people in charge of the U.S. delegation in each of the subcommittees of the U.N. Seabed Committee? Have you designated who the man in charge is?

Mr. Brower. Mr. Chairman, inasmuch as the chairman of the delegation has not presently been announced, I would not like to anticipate that chairman's prerogative in making those decisions.

PRINCIPAL NEGOTIATOR WILL SEE JOB THROUGH TO FRUITION

Senator Pell. This is another excellent example why this man should have been appointed some time ago. I would hope that whoever is appointed to this job will see it through to fruition.

Would that be the understanding?

Mr. Brower. There is no doubt about that, Mr. Chairman; that is a condition and understanding of the appointment for which we await.

U.S. DELEGATES HANDLING WORK OF SEABED SUBCOMMITTEES

Senator Pell. Who is presently in charge of each of the Seabed Committees now, in the preparatory work that you need? Or could you submit the names for the record?

Mr. Brower. I could submit that for the record.

You want the chairmen of the subcommittees?

Senator Pell. Who is now handling the work in each of the subcommittees for the United States?

Mr. Brower. We can submit it for the record. I could give it to you as of the close of the Seabed Committee meeting in April.

Mr. Moore. I could give it to you now. The structure has continued with respect to the chairmanship of the March–April meeting that I chaired. The chairman of the meeting was chairman of also Subcommittee No. 1 and Subcommittee No. 2. Ambassador McKernan, was chairman of Subcommittee No. 3.

Senator Pell. That's the way that's continued since?

ASSISTANT SECRETARY FOR OCEANS, ENVIRONMENTAL, AND SCIENTIFIC AFFAIRS

As you know, we have considered on the floor and are now in conference on a bill that creates an Assistant Secretary for Oceans, Environmental, and Scientific Affairs.

After consultation with you, we decided not to include legal affairs.

Mr. Brower. I appreciate that bit of legislation history, Mr. Chairman.

Senator Pell. This would provide a base on which to draw some of the people, if it sticks. It may not stick, but I hope it does.

Mr. Moore. Mr. Chairman, I wonder if I could simply clarify that for the record?

Senator Pell. I would add here when I used the word "consultation" I used it inadvisedly, because you were opposed to this action. I don't want to get you in trouble with the executive branch.

Mr. Brower. I was in favor of not withdrawing any functions from the Office of the Legal Adviser.

Mr. Moore. My statement of clarification for the record is to make clear that the intent here is not to handle the Law of the Sea negotiations in the new office.

Senator Pell. No. I thought your point was very well taken, that the legal question should be handled by the legal adviser. My concept here, as you know, is that the oceans are really a geographic area of

the world, 70 percent of the world, as you mentioned earlier, and they should have the same kind of treatment that the other geographic areas do with an assistant secretary handling their problems, as well as those of the environment and the sciences. This is really the thought here.

I would think as time moves on if this Bureau is set up, as I trust it will be, that the assistant secretary in charge of it will probably play a leading role, just as the Assistant Secretary for Europe plays a very leading role in the European Security Conference. And that is the relationship that I had envisioned.

QUESTIONS FOR THE RECORD

There will be some more questions that will be submitted for the record on behalf of Senator Muskie and I. We would send these questions to you within the next 48 hours.

We would appreciate as quick a response as possible, because we would like to get this record printed, and try to move the resolution forward. The sooner we have the answers back, the sooner we can move.

If you could get everything back to us within a week, it would be helpful to us both.

Mr. BROWER. If we have it within 48 hours, there will be no problem. As a practical matter, we would need to provide those before the delegation goes off to Geneva for reasons of manpower if no other reason. So I think we would be quite expeditious.

[The information referred to follows:]

[Committee staff note. The following additional questions were submitted on June 21, 1973. The State Department replies were received on August 2, 1973.]

MR. BROWER'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR MUSKIE

Question 1. There is much interest especially among developing countries, in concluding new mutual assistance arrangements for the development of the marine environment. In the talks preparatory to the Law of the Sea Conference has the U.S. tabled any formal mutual assistance initiative?

Answer. The U.S. has, during the course of these Law of the Sea negotiations, made a variety of proposals which fall within the broad scope of the term "mutual assistance". In the seabeds area, the U.S. draft treaty proposes that revenues derived from seabed exploitation be used in part through or in cooperation with international or regional organizations "to promote efficient, safe and economic exploitation of mineral resources of the seabed: to promote research on means to protect the marine environment; to advance other efforts to design and promote safe and efficient use of the marine environment; to promote development of knowledge of the international seabed area; and to provide technical assistance to contracting parties or their nationals for these purposes, without discrimination." Other articles of the U.S. draft treaty elaborate further on this general concept. The U.S. draft treaty also contemplates that revenues will be used by the new international Authority to be established to provide technical assistance to individual developing States, parties, who have special needs requiring technical assistance. The U.S. proposal contemplates that all surplus revenues not used for these purposes and the payment of administrative expenses of the organization itself, will be used for general development purposes but funneled through international development organizations.

Similarly in scientific research, the U.S. has proposed various modalities to achieve the transfer of scientific information and the means of applying it, as well as methods for assessing its value for developing countries. The U.S. Delegation, in addition to tabling draft treaty articles which include specific obligations along these lines, has also indicated in recent statements a further elabora-

tion of its views on the question of transfer of technology directly related to the conduct of scientific research.

In the fisheries area as well, the U.S. has proposed in its draft treaty articles that contracting parties make available to international organizations concerned with fisheries management, experts who in turn would be made available to developing countries to assist in the establishment of fishery management systems.

Question 2. Would you outline the response of other nations to our "species approach" to fish? Does the U.S. contemplate any change in its fisheries position to accommodate the insistence of foreign governments on a 200 mile economic resource zone?

Answer. Our species approach was designed to achieve a reasonable accommodation of the interests of coastal States and distant water fishing States as well as to reflect the underlying biological basis necessary for an efficient conservation regime. At this stage of the negotiations, the reaction of other nations reflects their particular perspective on the issue. Thus, those nations that perceive their fishing interests as being largely coastal do not feel that it goes far enough in the direction of coastal States. On the other hand, those nations that perceive their interests as primarily distant water, including some that fish off the coast of the U.S., believe that it goes too far. In addition, we believe our repeated emphasis on the need to take into account the biological characteristics of different species of fish is beginning to achieve positive response, even from those that support a 200 mile zone for reasons of administrative convenience or other reasons. Thus, reference is made to the problem of highly migratory and anadromous stocks in the recent Law of the Sea Declaration of the Organization of African Unity. Proposals by Australia and New Zealand, and by Canada, Kenya, India and Sri Lanka regarding fisheries, while not in accordance with our views in certain important respects, are also indicating that the problems posed by different biological characteristics of species can be taken into account. We are hopeful that the Law of the Sea Conference can achieve a reasonable accommodation of interests between coastal fishing nations, including those that have proposed a 200 mile zone, and distant water fishing nations in a manner that will provide for the conservation and rational utilization of fisheries, and it is our firm intention to continue working vigorously for such an accommodation.

Question 3. There has been much discussion in recent months about the conclusion of a bilateral accord with the Soviet Union concerning lobster fishing. Is such an accord imminent?

Answer. On June 12, 1973 we signed a bilateral fisheries agreement with the Soviet Union, which extended and modified the previous agreement of December, 1970. This agreement contains a new provision on lobster fishing. The Soviets have agreed to refrain from engaging in the intentional catching of lobster off the coast of the United States north of Cape Hatteras, to take appropriate measures to minimize incidental catches of lobster in specialized fisheries for other species, and to return to the sea in a viable condition all lobster taken incidentally insofar as possible. A similar provision is included in the bilateral accord concluded with the Polish People's Republic on June 2, 1973. We hope that these provisions will provide greater protection for the lobster off our coast.

Question 4. On May 17, 1973, Ambassador McKernan testified before a House Committee that following the conclusion of a bilateral agreement with this country, the Japanese were no longer fishing for lobster off our coasts. On the very next day, a Japanese ship was boarded off the coast of Massachusetts and a host of lobster pots were found. What is our government doing to prevent such violations of bilateral fishing accords?

Answer. The United States is taking action to prevent violations of bilateral fishing accords in several ways. First, in bilateral agreements with the Soviet Union and Poland we have set up voluntary joint enforcement systems which allow inspectors on a voluntary basis to stop and search vessels they believe are in violation of the provisions of the agreement. In addition, the Japanese have been very cooperative in voluntarily permitting our Coast Guard officials and fisheries inspectors to board their vessels. Included in the enforcement schemes are channels for prompt, accurate reporting of the violation to the flag State of the vessel to ensure timely action by the flag State. These enforcement schemes are designed to promote compliance with the provisions of the agreement. Second, the United States is cooperating with other countries fishing off our coast to ensure that their fishermen have the information, of both a scientific and technical nature, necessary to prevent violations of the agree-

ment. Such cooperation is particularly important in a case like the Japanese one, where the fishermen contended that they did not know about the agreement. A system of regular visits of fisheries authorities and representatives of fishermen's organizations is specifically required by the agreements with both the Soviet Union and the Polish People's Republic, and while not specifically required by the Japanese agreement, such visits are also conducted with Japanese fishing representatives.

When violations do occur, the United States takes immediate action through diplomatic channels to stop the violation and to ensure flag State action on the infringement. In the case of the recent Japanese lobster incident, a protest to the Japanese Economic Consul produced instructions to the vessel within 24 hours to pull up its lobster pots and throw back all the lobster and red crab it had taken.

To ensure quick effective resolution of disputes the U.S. is also attempting to set up Conciliations Boards with other countries which will consider claims for damage to or loss of vessels or gear and will also consider disputes between the countries or their fishermen over the terms of the agreement. Conciliation Boards have recently been established with both the Soviet Union and the Polish People's Republic.

Question 5. What is the relative value of our coastal fisheries as compared to our distant water fisheries?

Answer. Attached is a comparative table of fishery landings by U.S. flag vessels for 1967–72 expressed in terms of metric tons and dollars. This is the most current information that we have.

Question 6. What is the U.S. position with respect to compensation for damages resulting from seabed exploitation? Are there any standards of liability? Pay limitations on compensation?

Answer. See answer to question 15 posed by Senator Case.

Question 7. In the talks preparatory to the Law of the Sea Conference, does the U.S. plan to introduce draft articles on pollution?

Answer. See our answer to question 13 posed by Senator Case.

FISHERY LANDINGS BY U.S.-FLAG VESSELS, 1967–72

[In thousands of metric tons [1]]

Item	1967	1968	1969	1970	1971	1972	6-year total	Average 1967–72 Tons	Average 1967–72 Percent
Total for all domestic fisheries, excluding salmon	1,799	1,804	1,918	2,106	2,182	2,122	11,931	1,989	85.4
Total for salmon	99	150	122	187	142	98	798	133	5.7
Total for all tuna fisheries conducted away from U.S. coasts	164	149	172	190	191	207	1,073	179	7.7
Total for all distant-water shrimp and spiny lobster fisheries (combined)	22	30	29	30	20	28	159	27	1.2
Total								2,328	100.0

[1] Includes catches by U.S.-flag vessels landed at U.S. ports and territories, and in foreign countries.

VALUE OF FISHERY LANDINGS BY U.S.-FLAG VESSELS, 1967–72

[In millions of dollars [1]]

Item	1967	1968	1969	1970	1971	1972	6-year total	6-year average	6-year percent
Total for all domestic fisheries, excluding salmon	420	464	510	564	610	703	271	545	76.0
Total for salmon	49	67	63	99	78	63	419	70	9.8
Total for all tuna fisheries conducted away from U.S. coasts	42	49	60	74	85	99	409	68	9.5
Total for all distant-water shrimp and spiny lobster fisheries (combined)	26	32	25	32	35	53	203	34	4.7
Total								717	100.0

[1] Includes value of catches by U.S.-flag vessels landed at U.S. ports and territories, and in foreign countries. Basic annual data from NMFS Office of Resource Utilization, June 18, 1973.

[Committee staff note. The following additional questions were submitted on June 21, 1973. The State Department replies were received on August 2, 1973.]

MR. BROWER'S RESPONSES TO ADDITIONAL QUESTIONS SUBMITTED BY SENATOR PELL

Question 1. With the Conference scheduled to meet next year, this is a legitimate point in time to question the overall thrust of the current negotiations. How close are the negotiations to a real accommodation? What are the basic outlines of a probable outcome? If they are not yet clear, what makes the U.S. Delegation think they will be clear in an 8-week session in Geneva? If they are clear, how close do they approximate the U.S. position, i.e., 200 miles vs. the 5 international standards proposed by the U.S.

Answer. The preparatory negotiations for the Law of the Sea Conference taking place in the United Nations Seabed Committee serve the purpose of a full exchange of views among the participating delegations on law of the sea issues and an exploration of the possible accommodations which could form the basis of a widely accepted international agreement. Although the Committee functions on the basis of consensus during this process, nations tend as much as possible to reformulate their positions so as to bring them closer to others. The discussions to date have contributed to an understanding among the States of other States' interests and concerns, and have served an educational function. At the same time, attention has been focused on areas of agreement, certain areas of disagreement have been identified and areas in which previously there has been disagreement increasingly are becoming areas of agreement. Furthermore, consolidated texts are being prepared in the Sub-Committees and numerous new proposals have been submitted, especially in Sub-Committee II.

The discussions to date indicate at least broad consensus on:

(1) A 12-mile territorial sea, assuming certain other conditions are met at the same time; the U.S. willingness to accept a 12-mile territorial sea is conditioned on recognition of free transit through and over straits used for international navigation.

(2) Freedom of navigation on the surface, submerged and in the air beyond 12 miles.

(3) Broad coastal State jurisdiction over coastal fisheries and seabed resources beyond 12 miles as part of an overall settlement.

(4) An international regime and machinery for the seabed beyond the limits of coastal State economic jurisdiction.

There are also certain key unsettled issues which include:

(*a*) The extent and nature of coastal State economic jurisdiction, including whether it should be exclusive or subject to international standards and accountability and whether certain exceptions should be made for fisheries such as tuna and salmon.

(*b*) Free transit through and over international straits.

(*c*) The nature of the international regime and machinery in the seabed area beyond coastal State jurisdiction: whether the international agency should have exclusive authority to itself explore and exploit the resources of the seabed or whether it would not have such authority—which would instead be granted only to States or States and private parties under a licensing system.

(*d*) Authority to prescribe and enforce standards to control pollution from vessels, particularly a jurisdictional system which will both effectively protect the marine environment and preserve the freedom of navigation, while meeting genuine coastal State concerns.

(*e*) The problem of maintaining a high degree of freedom of scientific research.

(*f*) The question of compulsory dispute settlement.

It is expected that the 8-week session of the Seabed Committee in Geneva this summer will further sharpen the focus. Working groups have already been established for the international regime and machinery for the seabed area beyond national jurisdiction, for pollution, for scientific research and technology transfer. There is also a working group of the whole in Sub-Committee II to consider all subjects and issues under its mandate, including fisheries, territorial sea and other traditional law of the sea issues. These groups will prepare draft texts which will identify the areas of agreement and provide alternate texts where no agreement is possible at this time. These texts in all probability will

then be forwarded to the Conference and form the basis for the intense political negotiations leading to the treaty itself.

In this connection, it should be recalled that States will not, and as intelligent negotiators, cannot in all cases indicate final positions on crucial disputed issues until the negotiations approach their conclusion. However, as nations approach the Conference itself, they are stating new positions which are increasingly responsive to the positions of other countries and increasingly reliable indicators of their true positions.

Question 2. The U.S. fishery position provides for the protection of certain "historical" rights of major fishing nations. Could you elaborate on how these rights will be protected? How will this be applied to fishing grounds off the coast of the United States? How will this affect the activities of the Russian and Japanese fishing fleets off the coast of the U.S.?

Answer. The U.S. fishery position provides that each coastal State would have a preferential right to as large a portion of the maximum sustainable yield of its coastal and anadromous stocks as it could catch. The remaining portion would be open to harvest by fishermen of other nations, subject to nondiscriminatory coastal State conservation measures and reasonable management fees fixed in accordance with international standards. The extent to which the coastal State preference would reduce traditional distant-water fishing should be determined in the Law of the Sea treaty through negotiation among concerned States at the Law of the Sea Conference. In our view, it would not be realistic to assume that this formula would in all cases require no reduction in traditional fishing, on the one hand, or permit its complete, immediate elimination, on the other hand. We hope to achieve an international formula for dealing with the question on a general basis when reduction is required. Thus, we anticipate that fishing activities of other nations off our coasts, such as the Soviet Union and Japan, would be governed by specific application of the formula established at the Conference.

Question 3. What is the U.S. looking for in this treaty? Do we want to discuss only straits, territorial sea boundaries and fisheries? Why have all these issues been linked to this one international forum? What can be accomplished through an international forum that cannot be resolved bilaterally?

Answer. The U.S. does not wish to discuss only straits, territorial sea boundaries and fisheries in the Law of the Sea Conference. The President's Oceans Policy Statement of May 23, 1970 outlined a variety of subjects upon which the U.S. was seeking multilateral agreement. These include the right and duties of States with respect to marine pollution, mineral resources of the continental shelf and a satisfactory international legal system for the rational and efficient development of the mineral resources of the deep seabeds. In addition, the U.S. is actively seeking multilateral agreement on the principle of compulsory dispute settlement as well as on mechanisms which would give full force to such a principle when it is agreed to. These issues have been linked in one international forum because the United Nations General Assembly adopted a resolution calling for a comprehensive Law of the Sea Conference which would include all of these issues. The U.S. supported that resolution because most nations, including our own, would be unable to settle certain Law of the Sea issues in isolation from others. Perception as to which issues require simultaneous resolution vary so widely that a comprehensive settlement appears to be the only feasible approach.

Many of the subjects and issues in the Law of the Sea negotiations cannot be effectively resolved on a bilateral basis. Moreover, issues such as an international regime for deep seabed mineral development, agreement on a 12-mile territorial sea with unimpeded transit through and over international straits, fisheries, international standards in areas of coastal State resource management jurisdiction, world-wide oceanographic research rights and preservation and protection of the marine environment can only be satisfactorily addressed on a multilateral basis. Numerous illustrations could be cited of confrontation and conflict with regard to the utilization of the ocean and its resources in recent years which would clearly demonstrate the inadequacy of the bilateral approach.

Question 4. Much attention has been given to deep seabed hard minerals by the Congress. Hearings have been held on the subject by several House and Senate Committees during the last year, including the House Committee on Merchant Marine and Fisheries and Foreign Affairs, and the Senate Committee on Interior and Insular Affairs and Commerce. Is this attention justified when it appears that only one company, Hughes Tool Company, may go ahead and mine manganese nodules in the absence of any international treaty or iterim U.S. legislation? What will the U.S. policy be regarding private exploitation during

the interim before a possible treaty is agreed to by the Law of the Sea Conference? Is it true that if the hard minerals companies were given the legislative assurances they have been requesting, they would still not be economically operational until sometime in the 1980's?

Answer. In a letter and appendix to Chairman Fulbright dated March 1, 1973, the Executive Branch explained in considerable detail its position on the question of interim seabed mining. We pointed out that the possibility of United States legislation governing the mining of manganese nodules prior to the establishment of an international regime for that purpose had a direct bearing on the law of the sea negotiations.

We proposed at the March 1973 U.N. Seabed Committee that the portion of the treaty dealing with the international regime and machinery might become provisionally applicable shortly after signature but prior to the receipt of sufficient ratifications for the treaty to enter into force. At our suggestion, the Secretary General has undertaken a study of past instances where the provisional application approach has been followed in international agreements. That study has been completed and is now available to the members of the U.N. Seabed Committee.

In the appendix to our March 1, 1973 letter to Chairman Fulbright, it was pointed out that the production of ocean nodules might begin as early as 1976 and that substantial commercial production might be underway not later than 1980. Since the full-scale operations have not yet started, it is difficult to know the precise year in which mining of nodules will be profitable. Estimates on timing vary between experts. However, it is our opinion that mining of manganese nodules in commercial quantities will probably occur by 1980 or sooner.

Our present information indicates that at least three American companies could bring manganese nodules into commercial production before 1980. Collectively, this would represent an investment of 700–900 million dollars.

Question 5. Why does the U.S. position on pollution emphasize the Inter-Governmental Maritime Consultative Organization (IMCO) as the forum best equipped to handle marine pollution matters, rather than the newly created United Nations Environmental Programme, under Maurice Strong?

Answer. The Intergovernmental Maritime Consultative Organization has been in existence since 1958 and has considerable experience in questions such as those relating to vessel safety and design. Consequently, the U.S. policy has been to strengthen IMCO's role in dealing with vessel-source pollution.

During the past few years, IMCO has become more closely involved with matters of vessel-source pollution and has organized the negotiation of several conventions on this subject. Those conventions include "The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties" (1969), and "The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage" (1971). IMCO has done the preparatory work for the October 1973 Conference on Marine Pollution which will negotiate a new convention covering oil discharge from vessels, discharge of sewage and garbage, construction standards, etc. and which will consider expanding the Intervention Convention to cover other substances in addition to oil. Also, the United States has proposed, in a speech by the Honorable Russell Train, the Chairman of the Council on Environmental Quality, that a new Marine Environment Protection Committee be established within IMCO with regulatory responsibility. (See answer to Senator Case question 13 and attached Train speech).

The United States has chosen to emphasize the work of IMCO and to give it a primary role for several reasons. IMCO has experience and has been actively engaged in the field of vessel pollution while the United Nations Environment Program has played a coordinating rather than an operating role in the environmental field. The two purposes envisioned for the UNEP are to coordinate all environmental activities within the U.N. and to administer the U.N. Environment Fund. It is expected that UNEP will cooperate with IMCO in various activities, possibly even utilizing its experience in setting up comprehensive programs, but UNEP will not itself become an operating agency. Such cooperation is envisaged in Article III of the U.S. draft articles on the protection of the marine environment. It should also be pointed out that IMCO is in a position to begin *immediate* consideration of the difficult issues involved.

Question 6. The United States introduced a rather elaborate conservation proposal at the recent meetings of the International Commission on North Atlantic Fisheries (ended June 15th). The proposal was not adopted and the U.S. is seriously reconsidering its membership on the Commission. What does this mean for the U.S. fisheries proposal?

Answer. The U.S. introduced a major conservation proposal at the recent meeting of the International Commission on the Northwestern Atlantic Fisheries (ICNAF). This proposal, which called for limitation of fishing effort, was not adopted because other countries felt that insufficient information existed to enable effective, equitable application of the plan to all countries. It was agreed, however, to study the methods and effects of effort limitation, and scientists of the countries involved will be cooperatively undertaking such studies. An alternative proposal was then considered which called for the establishment of a total quota for each country which would be less than the sum of that country's individual species quotas. A country would be required to cease its fisheries when it reached the total quota, regardless of whether it had caught its allocated amount of each individual species. The countries agreed on this proposal in principle. However, there was wide disagreement about the percentage amount by which the total quota would be lower than the sum of the individual species quotas, and agreement failed for this reason. The Commission proposed an interim meeting in September or October 1973 to reconsider the problem.

The U.S. is reconsidering its membership in ICNAF because the organization has not acted effectively to conserve stocks in the Northwest Atlantic. This fact reflects our intention to seek effective conservation of all stocks pending a law of the Sea Conference. However, it in no way lessens our commitment to seek satisfactory accommodations in bilateral and multilateral forums, or our commitment to work toward adoption of our fisheries proposal in the Law of the Sea Conference.

However, should distant-water fishing nations continue to maintain overly hesitant approaches to resolving coastal fisheries problems through multilateral means, the confidence of coastal nations in the viability of an international approach to fisheries management is likely to decline even further, and lead to even stronger demands for exclusive coastal State jurisdiction at the Law of the Sea Conference.

Question 7. Recent newspaper articles indicate that the U.S. Delegation has been using the threat of unilateral action by the Congress as a negotiating lever to speed up the discussions on law of the sea matters. These articles go on to say that such tactics are hurting the U.S. position. Do you have any comments on this matter?

Answer. The legislation introduced in the Congress in the form of the "Deep Seabed Hard Mineral Resources Act" has been the subject of discussion in the U.N. Seabed Committee by other delegations. The United States delegation has tried to be responsive to the questions raised by other delegations and has undertaken a commitment to keep the Committees informed on developments in this regard. Accordingly, we have made available to the Committee copies of major statements by United States officials on this draft legislation, including Executive Branch comments submitted to the Committee on Foreign Relations. We believe that is neither desirable nor productive to threaten the 91-member U.N. Seabed Committee and that has not been the practice of the U.S. delegation. It is a matter of record that we believe that the Seabed Committee should adhere to its work schedule and should prepare as fully as possible for the Conference. We also believe that it is important to communicate to other nations in these negotiations a complete and accurate understanding of our needs and Congressional concern with respect to those needs.

Question 8. Australia and New Zealand have been having a dispute with France concerning the French nuclear weapons tests in the South Pacific. Has the United States taken an official position on this issue?

Answer. Australia and New Zealand co-sponsored a resolution at the summer 1972 session of the U.N. Seabed Committee declaring "that no further nuclear weapons tests likely to contribute to the contamination of the marine environment should be carried out." The resolution was never put to a vote. The U.S. does not believe that consideration of this issue in the law of the sea forum can be productive and it can only obstruct progress on the central issues which are of concern. The matter of nuclear testing is a subject which another expert body, the Committee on the Conference on Disarmament, is seized.

The U.S. Government is a strong proponent of the Limited Test Ban Treaty. In discussion with the French Government over the years we have made no secret of our belief that the French should adhere to the Treaty and, by implication, cease their nuclear testing in the atmosphere.

The United States position on atmospheric nuclear weapons tests was expressed in our support of UN General Assembly Resolution 2934A, adopted on December 7, 1972. That resolution "stressed anew" the urgency of bringing to a halt all atmospheric testing of nuclear weapons in the Pacific or anywhere else in the world and urged all States that have not yet done so to adhere without further delay to the Limited Test Ban Treaty.

Question 9. What international institutions should be established to ensure an equitable sharing of all States in the benefits derived from exploiting the resources of the sea and the seabed and to protect the common interest in other uses of the Sea? According to the U.S. position, within what limits or parameters will such institutions be working?

Answer. At this stage of the negotiations, we believe it is appropriate for the U.S. to maintain some flexibility on the question of new international institutions to ensure an equitable sharing by all States in the benefits to be derived from seabed resource exploitation. Thus far, the subject has received little substantive discussion in the Seabed Committee (see answer to question 13 below). One approach could be that put forward in the U.S. draft treaty of 1970, in which the international seabed resource Authority would carry out the responsibility under a three-tier system. First, an appendix which would be included in the treaty would provide the general guidelines for the collection and distribution of revenues. Second, the Council—the executive organ of the Authority—would have responsibility for recommending to the Assembly how the net income of the Authority should be allocated. The Assembly would then adopt the Council's proposal or return it to the Council for reconsideration. The appendix to the treaty would, in particular, specify that when the net income of the Authority is distributed it should go to international and regional development organizations rather than directly to developing countries.

Question 10. How does the U.S. position hope to ensure the greatest freedom for the conduct of scientific research in the oceans, while taking into consideration the need to contribute the scientific, economic and social progress of the developing countries? What steps, if any, have been taken in the field of ocean technology transfer?

Answer. The U.S. position on scientific research and draft treaty articles were set forth on July 20, 1973 in Subcommittee III of the Seabed Committee. Copies of our introductory speech and the articles are attached. In essence, the articles attempt to balance what we believe are the interests of all mankind in the unburdened conduct of scientific research, with interests of coastal States, particularly developing coastal States, in their scientific economic and social progress.

The articles obligate States conducting scientific research, inter alia, to ensure that significant research results are published as soon as possible in an open, readily available scientific publication and supplied directly to the coastal State. The coastal State may participate in the research. The State doing research would ensure that all data and samples are shared with the coastal State. Of great importance is the obligation to assist the coastal State in assessing the implications for their interests of the data and results directly or through multilateral programs. (With respect to technical assistance, see also the answer to Senator Muskie's question 1.)

We have attached for your information a copy of an intervention made on July 20, 1973 by Ambassador Donald L. McKernan which explains the U.S. position on ocean technology transfer.

Question 11. Canada has recently announced its intentions to establish a fishery zone up to a total of 200 miles from their coastline. Has the Executive Branch formulated a response to this proposal?

Answer. On May 26, 1973 Minister Davis of Canada referred in a speech to Canadian interest in the establishment of a 200-mile area of exclusive fishing rights. The U.S. Executive Branch has not formally responded to this proposal. It is our position that such matters should be dealt with by multilateral agreement in the upcoming Law of the Sea Conference. We do not believe it is the present Canadian intention to act unilaterally to establish an exclusive 200-mile fisheries zone. Instead, we believe their intention is to seek accommodation of their fishing objectives in the Law of the Sea Conference.

The United States is a proponent of coastal State authority over coastal and anadromous fisheries, but with international regulation of highly migratory stocks. We believe our fisheries proposal, based on control over stocks of fish wherever they range, provides a more rational, effective system of fisheries conservation and management than is provided by a zonal approach. Canada recently joined Kenya, India, and Sri Lanka in submitting a new fisheries proposal to the U.N. Seabed Committee which is different from our own in many important respects and incorporates a 200-mile zone.

Question 12. What is the official U.S. position with respect to the fisheries dispute between Great Britain and Iceland (Cod War)? Will this dispute have a damaging effect upon our NATO commitments? Will this become an important issue during the law of the sea discussions?

Answer. It is the U.S. view that the fisheries dispute is a matter that should be resolved amicablly through negotiations between the two parties. We also hope that the fisheries dispute will remain separate from NATO issues, thereby not having a damaging effect on NATO commitments. The question of the nature and extent of coastal State jurisdiction over fisheries resources will be one of the key issues for resolution at the Law of the Sea Conference. An accommodation will be sought to protect coastal State interests in fisheries adjacent to its coast and the interests of traditional distant water fishing states.

Question 13. How strong is the U.S. position on revenue sharing? In what areas will this concept of revenue sharing apply, and to what degree? Is the U.S. position shared by other nations? How many?

Answer. We assume this question relates to revenues from seabed areas subject to coastal State resource management jurisdiction, rather than to the deep seabeds to be administered directly by the international authority.

On August 10, 1972, the U.S. Representative to the UN Seabed Committee delivered a major address on the resource and non-resource uses of the ocean. He stated that the United States could accept virtually complete coastal State resource management jurisdiction over resources in adjacent seabed areas if this jurisdiction were subject to five international treaty limitations. The fourth international treaty limitation was described as follows:

"4. Sharing of revenues for international community purposes.

"We continue to believe that the equitable distribtuion of benefits from the seabeds can best be assured if treaty standards provide for sharing some of the revenues from continental margin minerals with the international community, particularly for the benefit of developing countries. Coastal States in a particular region should not bear the entire burden of assuring equitable treatment for the landlocked and shelf-locked States in that region, nor should they bear the entire burden for States with narrow shelves and little petroleum potential off their coast. The problem is international and the best solution would be international. We repeat this offer as part of an overall settlement despite our conclusion from previous exploitation patterns that a significant portion of the total international revenues will come from the continental margin off the United States in early years. We are concerned about the opposition to this idea implicit in the position of those advocating an exclusive economic zone."

In its statement of July 18, introducing its draft articles on the Coastal Seabed Economic Area (attached), the U.S. Delegation reaffirmed its commitment to the principle of revenue sharing, and in explanation of its draft article 2(e) on revenue sharing stated:

"*Article 2(e)* raises the question of revenue sharing which has been with this Committee from the very beginning of its negotiations in Rio de Janeiro in 1968. My government first proposed revenue sharing in President Nixon's Oceans Policy statement of May 23, 1970. We believe it is a reasonable method for achieving equity in a final Law of the Sea Treaty—not only for landlocked and shelflocked countries, but for those countries who have continental margins but which will find little oil there and for those countries which seek to broaden jurisdiction over the resources of the continental margin. Revenue sharing is, in our view, an important element in an overall comprehensive settlement of the law of the sea issues which, as I indicated earlier, could have specific application to the problem of resolving the issue of the outer limit of coastal State resource jurisdiction. We note that to date few nations have spoken in support of this concept. We hope that situation will change and that at a future stage of our negotiations we will be able to begin to discuss specific formulas for revenue sharing. We do not see, Mr. Chairman, how we will reach the state of

discussing specific revenue sharing arrangements until nations have some better idea of the role which revenue sharing will play in an overall political settlement of the many issues in this negotiation."

The question of how any such revenues might be divided and distributed is still under study by the Executive Branch and has not been actively discussed.

Question 14. On June 9, 1972, at the Santo Domingo Conference a majority of the Caribbean nations headed by Mexico, Costa Rica, Venezuela and Colombia, endorsed a "new patrimonial sea" concept. Could you explain, for the record, what this concept is? What is the official U.S. position on the Santo Domingo Declaration and the "patrimonial sea" concept?

Answer. On April 2, 1973, Colombia, Mexico and Venezuela submitted draft treaty articles on the patrimonial sea to the UN Seabed Committee. These articles were basically an implementation of the Santo Domingo Declaration which emerged from regional conference held in Santo Domingo during June 1972.

Articles 4–12 of the draft articles are particularly concerned with defining the patrimonial sea. They read as follows:

"PATRIMONIAL SEA

"*Article 4.* The coastal State has sovereign rights over the renewable and non-renewable natural resources which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea.

"*Article 5.* The coastal State has the right to adopt the necessary measures to ensure its sovereignty over the resources and prevent marine pollution of its patrimonial sea.

"*Article 6.* The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea.

"*Article 7.* The coastal State shall authorize and regulate the emplacement and use of artificial islands and any kind of facilities on the surface of the sea, in the water column and on the sea-bed and subsoil of the patrimonial sea.

"*Article 8.* The outer limit of the patrimonial sea shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

"*Article 9.* In the patrimonial sea, ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight with no restrictions other than those resulting from the exercise by the coastal State of its rights within the area.

"*Article 10.* Subject only to the limitations established in the preceding article, the coastal State shall respect the freedom to lay submarine cables and pipelines.

"*Article 11.* 1. The coastal State shall exercise jurisdiction and supervision over the exploration and exploitation of the renewable and non-renewable resources of the patrimonial sea and over allied activities.

"2. In exercising such powers, the coastal State shall take appropriate measures to ensure that such activities are carried out with due consideration for other legitimate uses of the sea by other States.

"*Article 12.* In exercising the freedoms and rights this Convention confers on other States, the latter shall not interfere in the activities referred to in the preceding article."

On August 10, 1972, the U.S. Representative to the U.N. Seabed Committee welcomed the interesting report of the Representative from Venezuela on the Santo Domingo Conference of Caribbean States. He applauded its contribution to the continuing development of a generally acceptable agreement. At the same time, he pointed out that the Declaration did not take into account a number of factors in the U.S. position. He noted, in particular, the absence of any reference to international standards and dispute settlement procedures applicable to coastal State resource jurisdiction and of any distinction in the treatment of living resources based on their migratory characteristics. He observed, however, that the Declaration provided a starting point for serious negotiations and, if harmonized with the U.S. August 10 statement, might contain a potential for merging together in a new treaty what were otherwise widely disparate positions. He expressed the hope then that the very beginnings of an outline might emerge which could become the basis for a successful Law of the Sea Conference.

Question 15. Several island nations, particularly Indonesia, the Philippines, Fiji and to some extent Mauritius, have indicated that their major negotiating objective is to gain recognition of the archipelago concept. Could you explain for the record what this concept is, and what the U.S. position is with respect to it? The U.S. Government has been under domestic pressure to make similar claims for the Florida Keys, the Aleutians, Hawaii, and the Trust Territory of the Pacific Islands. What has been the past practice with respect to these areas?

Answer. On March 14, 1973, Fiji, Indonesia, Mauritius, and the Philippines introduced principles on archipelagos in the UN Seabed Committee (copy attached). The three principles provide that an archipelagic state may draw straight baselines connecting the outermost points of its outermost islands and measure its territorial sea from those baselines. An archipelagic state is defined as one whose component islands and other natural features form an intrinsic geographical, economic and political entity which have or may have been historically regarded as such. The waters within the baselines would be owned by the State and subject to its sovereignty. Innocent passage through the archipelago would be allowed in accordance with the national legislation of that State and would be in sea lanes designated by that State.

The United States has not recognized archipelago claims made by States such as Indonesia, the Philippines and others which are inconsistent with existing international law. Such claims would subject large areas of the ocean to the sovereignty of a few states and, particularly due to the location of certain archipelagos, could result in severe hinderances on navigation both by commercial and military vessels and overflight of aircraft. A regime of innocent passage would pose similar, if not greater, difficulties with respect to broad archipelagic areas that it poses with respect to straits used for international navigation. We are, of course, willing to consider proposals on this question, as on other issues in the Law of the Sea negotiations, that can achieve a reasonable accommodation of interests.

With regard to the areas mentioned in the question, the United States has consistently drawn its three-mile territorial sea in strict conformity with the Convention on the Territorial Sea and Contiguous Zone, using the coastline as defined in the Convention, and drawing the territorial sea from each individual island.

Question 16. Within the UN Seabed meetings, only two major working groups have been formed—one on the deep seabed regime and the other on pollution. Others are needed—particularly to deal with fisheries and coastal state jurisdiction over the seabed resources. Has the U.S. Delegation undertaken any serious efforts to establish working groups on these subjects? What are the prospects for forming such groups during the summer sessions in Geneva?

Answer. In addition to the working groups on the seabed regime and pollution, the Seabed Committee has established two working groups: One (of the whole) on the territorial sea, contiguous zone, straits, high seas, continental shelf, exclusive economic zone, preferential rights and related issues; and one on scientific research and transfer of technology. The former includes fisheries in its mandate.

The U.S. delegation has, at a number of sessions of the Seabed Committee, tried to get agreement on the establishment of a specific working group on fisheries also, but without success. However, with the organizational arrangements worked out at the last Seabed Committee session, working groups have been established to cover all key issues, even though specific groups for each issue do not yet exist in all cases where we believe they might prove useful.

Question 17. Who is chairing the U.S. Delegation in each of the working groups at the Seabed meetings? Shouldn't qualified diplomatic (State Department) personnel be occupying these positions?

Answer. The following individuals occupied the chair for the U.S. in the working groups during the March-April session of the Seabed Committee:

1. Subcommittee I working group on seabeds—Leigh Ratiner.
2. Subcommittee II working group on the territorial sea, straits, fisheries, etc.—John Norton Moore and Donald L. McKernan.
3. Subcommittee III working group on marine pollution—Bernard H. Oxman.

During the July-August meeting, the breakdown is as follows:

1. Subcommittee I working group on seabeds—Leigh Ratiner.

2. Subcommittee II working group on the territorial sea, straits, fisheries, continental shelf, etc.—John R. Stevenson, Donald L. McKernan, and Bernard H. Oxman.

3. Subcommittee III working group on marine pollution—John Norton Moore.

4. Subcommittee III working group on scientific research—Donald L. McKernan.

We have tried to make the best use possible of the talent and expertise available within the U.S. Delegation in filling key slots, taking into particular consideration their substantive qualifications and negotiating expertise. This flexibility is essential in fully utilizing the resources of the delegation. All of these persons have substantial diplomatic experience and substantial experience in the preparatory work for the Law of the Sea Conference.

[Subcommittee staff note. All the individuals listed are State Department Employees except for Leigh Retiner. Mr. Retiner is Director for Ocean Resources, Department of Interior.]

Question 18. The functions of the Chairman of the Interagency Law of the Sea Task Force will not be displaced by the new position of the Assistant Secretary for Oceans and International Scientific and Environmental Affairs. Consequently, what action does the Department of State plan to take to strengthen the role of the Department in the U.S. preparation for the Law of the Sea Conference?

Answer. The Department of State has recently established a new office (NSC/D/LOS) to accommodate the Special Representative of the President for the Law of the Sea Conference, Mr. John R. Stevenson, and the Chairman of the NSC Interagency Task Force on Law of the Sea and its Executive Group, Mr. John Norton Moore. Mr. Stevenson and Mr. Moore are serving as chairman and Vice Chairman, respectively, for the U.S. Delegation.

The Special Representative of the President and the Chairman of the Interagency Task Force will each report directly to the Deputy Secretary of State in his capacity as Chairman of the NSC Under Secretaries Committee.

This new organization should ensure that a) there will be prompt and full coordination of LOS policy matters among the various interested agencies and a central focus for decision making; b) there exists an effective, recognized channel of communication to the President who will, if necessary, resolve differences; c) domestic and international interests of the US are taken fully into account in LOS policy formation and implementation; and d) an effective Washington backstopping mechanism will be operational at all times, including during the Law of the Sea Conference.

The Executive Director of NSC/D/LOS is Mr. Stuart H. McIntyre.

Senator PELL. I would hope that this record and the report would also be of some interest to our delegation, and more importantly to the other delegations in Geneva, because the purpose of the resolution is to commend the administration on the leadership they have shown in the Law of Sea matters, commend them on their excellent proposal of a couple of years ago, and commend them on their continuing efforts to implement those original ideas.

I personally regret any derogation of their original position, and express my strong views as chairman of this subcommittee supporting the general administration proposals in this regard, my hope and belief that they will be accepted by the Congress as a whole and by our Nation, and to wish the delegation good luck.

Thank you very much.

Mr. BROWER. Thank you very much.

Senator PELL. The subcommittee is adjourned.

[Whereupon at 6:45 p.m. the subcommittee adjourned subject to the call of the Chair.]

APPENDIX

CENTER FOR LAW & SOCIAL POLICY,
Washington, D.C., June 26, 1973.

HON. CLAIBORNE PELL,
Chairman, Subcommittee on Oceans and International Environment, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of June 18, 1973, you requested my written statement on the U.S. Law of the Sea position and the state of the current negotiations and preparations for the 1973 Conference.

The July-August preparatory meeting in Geneva will begin in less than a week. The United States position for this meeting has been formulated. As a representative of environmental interests, I will be an advisor to the United States delegation and then will participate on the Secretary of State's Advisory Committee in preparation for the Conference next year.

In light of the above, I believe it would be more productive if I presented my views to you after the July-August meeting is concluded. A member of your staff has indicated that you may again hold hearings at that time, and I believe that would be a good opportunity for you to receive the environmental viewpoint. I will assume that I can delay responding to your letter until that time unless I hear from you or your staff.

RICHARD A. FRANK.

Verona, N.J., June 27, 1973.

HON. CLAIBORNE PELL,
Chairman, Subcommittee on Oceans and International Environment, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: I am pleased to respond to your invitation to offer comments on the United States position and the current state of international negotiations related to the 1973 conference on the Law of the Sea.

My interest in this matter stems from my former activities in the International Nickel Company Incorporated from which I retired in 1969. It also involves my more recent, and continuing, service as a member of the Planning Committee for the Pacem in Maribus conferences sponsored by the Center for the Study of Democratic Institutions and the Planning Council of the International Ocean Institute. However, the views I shall express are my own and should not be considered as representing those of the organizations mentioned.

In 1972 I had the privilege of presenting comments on the Senate Bill S 2801 which has been re-introduced as S 1134 or HR 9. My views as expressed then, remain the same.

My continuing concern is with ferromanganese nodules lying on the ocean bed in deep waters beyond any present boundaries of national jurisdiction.

In approaching how these resources should be dealt with it will be helpful to recognize the necessity of dealing with both national and international interests. These can be defined separately but should be dealt with together.

The national interest of the United States is represented to a large extent and can be described in terms of the needs and concerns of United States companies who wish to become engaged in the recovery of metals in deep ocean ferromanganese nodules. To undertake such an activity and to raise or commit the large amount of capital that will be needed will require assurance of the following:

A. Recognized and protected rights from a competent source to undertake recovery operations at a defined location for a defined period of time with an adequate description of the "ground rules" under which operations would be conducted.

B. Establishment of the amount and method of payment and to whom, for the rights described in A.

C. Establishment that ferromanganese nodules harvested under the rights described in A will not be subjected to import duties when landed in the U.S.A. for further processing.

D. Establishment that rights conferred by any transitional or provisional arrangement to which the U.S.A. may become a party will remain in force when any such arrangement becomes a part of, or is superseded by, a permanent international treaty ratified by the U.S.A.

The international interests that must be satisfied include:

(*a*) A means for administering the exploitation of resources having an international origin.

(*b*) A means for regulating recovery operations to control pollution and avoid interference with other proper and traditional uses of the sea, such as fishing, transportation and communication.

(*c*) A means for settling disputes.

(*d*) A means for collecting and using revenues from fees assessed for recovery rights.

Since the needs described in both categories are both international and national and should, and can be accommodated together, it seems reasonable to conclude that what is needed should be provided from an international source rather than from a series of uncoordinated national sources.

The latter consideration makes doubtful the wisdom and desirability of unilateral action by the United States as proposed in the legislation currently under consideration by the Congress and referred to previously.

It also provides justification for the position already taken by the United States delegation to the U.N. Law of the Sea Conference which has been described to your committee. I hope your committee will continue to give this U.S. Delegation and its position the support it deserves as being in the best national interest and a proper one for the international community.

Recent progress in the preparatory conferences indicates that substantial agreements may be reached by 1976. This, hopefully, will be in time to deal with the first generation of nodule recovery operations.

The rate of progress in the technology for nodule recovery and processing makes it imperative that some international regulatory authority be in existence by that time. Otherwise some form of international transitional agreement may have to be arranged by nations ready to engage in nodule recovery. This could be patterned after similar transitional arrangements for regulation of civil aviation which were created, when required, pending a final international treaty dealing with this matter.

The U.S. Delegation to the Law of the Sea conference has already proposed that a provisional means for international regulation of nodule recovery under an appropriate treaty might be put into force by signatories of the treaty without waiting for ratification by other nations. This course of action as proposed by the United States Delegation should be supported by Congress in preference to any unilateral approach under United States law to provide its nationals with the security for their investments, prior to some final ratification of an international treaty which may not occur by the time nodule recovery operations can be undertaken.

What hopefully will be created by an appropriate treaty will be what might be called a Sea Bed Authority. This Authority would administer and regulate the recovery of sea bed minerals occurring beyond boundaries of national jurisdiction.

Presumably the treaty will include a definition of the boundaries of the jurisdiction of the Sea Bed Authority. If, for any reason, it should be found to be expedient to put provisionally into force regulations dealing with deep ocean nodules before agreement on the boundaries of national jurisdiction has been achieved, it should be possible to apply another criterion of jurisdiction specifically applicable to ferromanganese nodules under control of the Sea Bed Authority. This would use the approach suggested by Dr. Charles F. Hollister of the Woods Hole Oceanographic Institution. Hollister has pointed out that the geological nature of the oceanic crust under deep sea manganese nodules is readily distinguishable from that of continental rock. Consequently, pending final definition of the complete boundaries of the jurisdiction of the Sea Bed Authority, it could be recognized as having jurisdiction over nodules lying on

any specific area for which a license for exploitation might be negotiated, provided geological observations show that the rock underlying this area is true oceanic crustal rock.

In using this approach it should be clear that the geological basis for establishing jurisdiction would apply only to specific limited areas under license. This criterion need not be extended to identification or definition of the complete boundaries of interntaional jurisdiction.

In developing details of how nodule recovery operations might be regulated, advantage should be taken of the peculiar nature and location of nodules and how they will be recovered.

Nodules are scattered on the surface of bottom sediments or lie just below the surface. Their recovery can be considered as being a "harvesting" operation using devices that will rove over the bottom in gathering the nodules. Unlike mining operations on land there will be no need for more than transient occupancy of the ocean bottom within any area under license. Since there is no need for continuing tenure there will be no need for continuing jurisdiction over the area involved. Elimination of continuing jurisdiction by any nation should avoid ancillary problems that would go along with jurisdiction such as would be related to other uses of the area and its superjacent waters.

Since bottom area concessions will not be required, licenses to be granted by the Sea Bed Authority should be in the form of rights of access to nodules lying in a particular area, for an appropriate length of time, rather than licenses for continuing occupancy of a similar area. A license would define the boundaries of exclusive access with an appropriate buffer zone to avoid encroachment of adjacent operations on each other.

It will be necessary to restrict the total areas of exclusive access obtainable by a single licensee and to require some minimum level of recovery activity to prevent licensees from tying up resources without efforts to recover them. A license for exclusive access should be confined to ferromanganese nodules and exclude any other minerals that may occur in the same area.

License fees should be set by the Sea Bed Authority. These preferably should be based on the value of the metals recovered from the nodules rather than on the tonnage of nodules or on the area of exclusive access rights.

The use to be made by the Sea Bed Authority of revenues from access rights should make special provision for help to developing nations and particularly those whose economies might be adversely affected by competition of sea bed metals with metals from land sources.

In drafting regulations account should be taken of the fact that the areas involved will represent a very small fraction of the total ocean bottom area. It is unlikely that more than 1 percent of the ocean bottom will be exploited for ferromanganese nodules within the next fifty years.

It is unlikely, also, that a Sea Bed Authority would have to deal with more than four or five nodule recovery operations within the next ten years. The number of operations will be restricted by the limited market for the nodule metals beyond what will be available from existing and planned land based operations to accommodate the projected increase in world demand for these metals. There is no evidence that metals can be recovered from nodules at a lower cost than from land based ores.

The activity will also be limited by competition with land based projects for the large amounts of capital that will be required to finance nodule recovery. A typical first generation nodule recovery operation can be expected to require a capital investment of at least $150 million.

With thanks for the opportunity to present these views.

Yours truly,

FRANK LAQUE.

HARVARD UNIVERSITY,
CENTER FOR POPULATION STUDIES,
Cambridge, Mass., July 11, 1973.

Hon. CLAIBORNE PELL,
Chairman, Subcommittee on Oceans and International Environment, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: This is in reply to your letter of June 18, 1973, in which you requested me to send you a written statement to be included in the record of the hearings before your subcommittee on June 19, 1973.

in the enclosed statement, I have confined myself to one issue—freedom of oceanic research. I realize that all the issues before the International Conference on the Law of the Sea are closely interrelated. But it seems to me that the question of maintaining the essential conditions for increasing our understanding of the oceans is so critical that it should be given special attention.

In addition to the enclosed statement, I have recently written an editorial for *Science* on the same subject. It should be published within the next few weeks, and we will send you a copy.

Very sincerely yours,

ROGER REVELLE.

FREEDOM OF OCEANIC RESEARCH

The largest single appropriation of the earth's resources ever made is likely to occur in Santiago, Chile, at the forthcoming International Conference on the Law of the Sea. In preparatory meetings, over the past four years, a majority of the nations that border on the sea have argued for extending the limits of national jurisdiction out to 200 geographical miles from shore. The region thus legally removed from the domain of the open sea would contain about 37% of the entire area of the oceans, nearly equal to that of the continents. Never since the edict of Pope Alexander VI, which divided the earth's land area outside Europe between Portugal and Spain, has there been such a grandiose grab of the resources of our planet. The new apportioning is most strongly supported by the less developed countries, although Pope Alexander's edict was greated with little enthusiasm by the rulers of these same territories in the sixteenth century.

Why should scientists be concerned with these arrangements? Unfortunately, one of the property rights included under national jurisdiction is the right to control scientific research. The present international Convention on the Continental Shelf, which was drawn in 1958, gives jurisdiction over the resources of the "seabed and subsoil" to the adjacent coastal states, out to a depth where Exploitation of these resources is feasible, and provides that scientific research on or under the floor of the shelf can be carried out only with the permission of the coastal state, although it expresses the hope that such permission "will not normally be withheld." Experience shows that permission is, in fact, often withheld. Unless some special provision can be made at Santiago to protect the freedom of scientific research, each coastal state will be able to prohibit or drastically limit all scientific work out to 200 miles from shore, on the waters and their contained organisms, the air above, and the sediments and solid earth beneath. If this happens, one of the great ages of exploration of our planet could draw to a close.

Scientific exploration of the ocean during the past 25 years has begun to revolutionize our understanding of the history of the earth and of the forces and processes that determine it, yet most of the work necessary for a real understanding remains to be done. Many problems are still unsolved in the boundary zones between the continental platforms and the ocean abyss, which in most places lie within 200 miles of the shore. Here run the great ocean currents, and the waters contain most of the sea's population, and the largest diversity of living creatures.

The less developed countries fear that the knowledge gained through oceanic research will give the developed countries an advantage in recovering the ocean resources in their new zones of national jurisdiction. Much scientific work at sea is so expensive, in terms of both money and trained manpower, that it can be carried out on an adequate scale only by the rich countries. The poor countries apparently believe that unless they can control oceanic research, it will become another tool in the hands of the rich and powerful to exploit the poor and the weak. The oceanographers contend, on the contrary, that basic research freely published and openly available, will benefit all nations.

One difficulty is to define such universally beneficial "open" research in a way that will exclude geophysical and biological prospecting for specific resources, for example, oil, natural gas, and exploitable populations of marine organisms, and will prevent research being used as a subterfuge for covert operations. The International Council of Scientific Unions, the central coordinating body for international science, has proposed three criteria: 1) The coastal state shall have the right to participate by sending its own scientists aboard the scientific vessel; 2) It shall receive copies of all data and have equal access to all samples; and 3) The results shall be published in the open scientific literature.

By themselves, these criteria may not be sufficient to protect the interests of the less developed countries, because many of them possess neither the specialized manpower nor the institutional resources to be able to interpret the scientific data and results. Interpretations in which they could have full confidence should be made either by their own trained nationals, or by an international organization in which the poor countries have a strong voice. Technical assistance for training, and funds for support, are needed from the rich countries. Assistance in evaluating the results of geophysical and biological prospecting, done under concessionary arrangement by foreign oil, mining, or fishing companies, would be even more valuable. An agreement to protect the freedom of "open" research might be possible at Santiago if the rich countries would pledge a definite portion of the funds allocated for the research at sea (say 5%), to be used to support the provision of assistance in interpreting the results.

The problems of communication between scientists and international lawyers are surprisingly difficult. Even a mutually acceptable, clear-cut definition of open research has not been arrived at. From the scientific point of view, the stakes are very high, but it has not been possible to transmit a sense of this urgency to the lawyers, who tend to give much higher priority to economic and military interests, even though these will depend critically in the long run on increased scientific knowledge.

Unlike other political problems facing science today, the dangerous threat to oceanic research could be irreversible in its consequences. Because the United States has been the world leader in this research, not only in terms of money and effort but in accomplishment, the threat will be especially severe for us. I urge your committee to give this matter your most earnest consideration in developing congressional guidance for the American delegation at Santiago.

COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK,
SCHOOL OF LAW,
New York, N.Y., July 13, 1973.

HON. CLAIBORNE PELL,
Chairman, Subcommittee on Oceans and International Environment, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: I have your letter requesting a statement about the United States position at the forthcoming Law of the Sea Conference.

The Conference will consider principally two sets of issues: the jurisdiction of coastal states, and the law to govern activities (in particular, sea-bed mining) in the seas beyond any coastal state's jurisdiction.

As regards deep-sea mining the United States has favored a regime providing for exploitation by states and national enterprises pursuant to license from an international authority, and producing some revenue for international purposes. Basic objections to the U.S. plan have come from nations which wish to see the international sea-bed exploited by an international operating agency. But most states, I believe, will conclude that international operation is not feasible, and something not-unlike the United States plan might well emerge.

More difficult—and more important—are the issues of coastal state jurisdiction. Most states of the world are coastal states, many of them are in an expansionist mood, and resistance to their expansion has been seriously weakened. Presently some of them seek exclusive rights to resources (fish as well as minerals) out to 200 miles from shore; but their proposals and arguments would support as well, and would lead eventually to, coastal state authority over such (or larger) areas of sea for other and all purposes, ending the common character and the freedom of those seas.

Despite her own extensive coasts, the United States has, from its national beginnings, resisted coastal state expansion and has championed freedom and the common interest in all of the seas outside a narrow territorial sea. (The Truman Proclamation on the Continental Shelf was an aberration and, some think, an unfortunate one, substantially responsible for cotemporary expansionism.) For the forthcoming Conference the United States has evolved a delicate compromise between her traditional support for freedom at sea and her own—and others'—coastal interests.

The United States compromise goes far—some think too far—to accommodate legitimate coastal state interests. Despite efforts by opponents to kill the U.S. plan or to declare it dead its cause is far from hopeless. In her resistance to coastal state expansion, the United States is hardly alone, her interests and perceptions are not unique, and are not adverse to, or different from, those of many other countries. Many of the participants at the Conference will recognize that, on balance and if only in the longer run, they would lose far more than they would gain if coastal states are permitted to expand freely into the sea. There will be greater support for restraining coastal states if the United States supports an enlightened generous regime for the deep seas, with substantial authority for international institutions and substantial revenue for international purposes.

It is the task of United States negotiations to educate, persuade and lead others in effective resistance to extravagant expansionism. If that were done, the American compromise, I believe, would have good prospects. The danger is that the United States position might itself erode and weaken, under domestic pressures which, short of sight and narrow in focus, favor expansion by the United States and blink the danger of expansion by others and preach the undesirability or the futility of resisting such expansion.

Resistance to coastal state expansion is the dominant United States interest in sea-issues today. Our interests, surely, require that as little of the seas and of its resources (including fuel) as possible should fall within the unregulated control of national governments, often unfriendly or unstable. If our resistance falters and fails major interests of the United States and of many other states will soon be lost forever.

Sincerely yours.

LOUIS HENKIN,
Hamilton Fish Professor of International Law and Diplomacy.

STATEMENT BY HON. JOHN R. STEVENSON, CHAIRMAN OF THE U.S. DELEGATION TO THE COMMITTEE ON THE PEACEFUL USES OF THE SEABED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION—SUBCOMMITTEE II, JULY 18, 1973

MR. CHAIRMAN: Almost a year ago, in a statement before the Main Committee, my delegation said that the United States "can accept virtually complete coastal State resource management jurisdiction over resources in adjacent seabed areas if this jurisdiction is subject to international treaty limitations in five respects." We also noted that the negotiating positions of various states "are now substantially closer together than their juridical positions" and we noted with interest the contribution to our work made by the Santo Domingo Conference of Caribbean States and the Yaounde Seminar of African countries. We now also have before us the Declaration on the Issues of the Law of the Sea of the Organization of African Unity. In addition, States have continued to express negotiating positions on the question of coastal resources which indicate that there is indeed a basis for believing that further progress can be made and a successful Conference achieved.

Mr. Chairman, we look forward to discussion in the Working Group of Subcommittee II on the question of fisheries. Our own proposal on fisheries was submitted last August, and of course is not affected by the proposals we are making today regarding the seabeds.

During July, the Working Group of Subcommittee II has debated item five on the list of subjects and issues—the continental shelf, and related matters regarding economic jurisdiction over seabed resources. We found that debate to be a helpful and useful exchange of views. We were impressed with the efforts of all delegations to engage in a structured, reasoned and temperate discussion on the question of the continental shelf and seabed resources. We are most encouraged by the fairly widespread agreement that has emerged in the Working Group on certain fundamental issues with respect to seabed resources, and would like to address some of these issues in connection with the introduction of our draft articles.

There is no question but that most States believe that the coastal State should have exclusive rights over the natural resources of the coastal seabed and subsoil.

Thus, the coastal State should determine if exploration and exploitation will take place, who shall do it and on what terms and conditions. We agree that the coastal State should have such full resource management jurisdiction over such coastal seabed resources. We do so, however, subject to the conditions which I will elaborate in this statement. These conditions are designed to ensure that coastal State rights are accompanied by corresponding duties to protect the interests of other States and the international community in general.

We also note the preponderant view that the outer boundary of the coastal State's seabed economic jurisdiction should be fixed in terms of a mileage distance with 200 miles the generally preferred figure. However, a sizeable number of delegations would appear to prefer, in addition to this mileage limit, an alternative seaward limit which would embrace the continental margin where it extends beyond 200 miles. My delegation would welcome the opportunity for continuing consultations with other States on the outer boundary. It should be clear, however, that if the outer boundary of coastal State economic resource jurisdiction is to include the entire continental margin, a precise method of delimiting that area will have to be found.

In this connection, Mr. Chairman, I would like to repeat the comment that I made in the working group when this issue of whether the other boundary should extend beyond 200 miles to the edge of the margin was discussed. I indicated my concern that a number of countries advocating a uniform 200 miles boundary were suggesting that the issue be considered in terms of "compensation" to the coastal State for renouncing its rights in the continental margin beyond 200 miles. I am not at all clear what form this "compensation" could take and do not see this as an effective way of obtaining the general agreement of coastal States with a wide margin, nor of satisfying the aspirations of the land-locked and shelf-locked countries. I suggested that we devote more attention to the converse, i.e., recognition of broad coastal State resource management rights, but with provision for an equitable accommodation of other States' interests through measures such as revenue sharing which are consistent with coastal State resource management.

From the point of view of my government, a new Law of the Sea Treaty would not be adequate if it gave to coastal States comprehensive seabed economic jurisdiction without providing for protection of the rights of other States in the seabed economic area of coastal States. We believe these rights must not only be clearly provided for in the Law of the Sea Treaty but that a system should be established which will assure that the coastal State does not go beyond its seabed economic rights or unjustifiably interfere with other activities conducted in the area or superjacent waters by other States. In this negotiation, we are now dealing with large areas of ocean space in which intense activity, some of which will not be resource oriented, will occur in the future—activity of interest both to the coastal State and other States. We believe, therefore, that in the interests of worldwide agreement on the rights of coastal States there must be correlative duties assumed by the coastal State to assure a harmonious accommodation of interests.

In order to make clear our views on this subject, my delegation introduced draft treaty articles entitled "The Rights and Duties of States in the Coastal Seabed Economic Area" several days ago. With your indulgence, Mr. Chairman, I would like to take this opportunity to comment on some of the provisions of these draft articles.

Article 1(1) would assure the coastal State that it has the exclusive right to explore and exploit as well as to authorize the exploration and exploitation of the natural resources of the seabed and subsoil within the coastal seabed economic area. This would appear to be one of the principal economic negotiating objectives of the majority of coastal States and in particular of the coastal developing countries.

Article 1(2) deals with the question of the delimitation of the boundaries of the seabed economic area. I have previously discussed our views on the outer boundary. With respect to the inner boundary of the area, my delegation recognizes that simplicity and logic would call for the coastal State's economic rights and duties to commence at the edge of the territorial sea. Moreover, it would be desirable for the substance of the duties of the coastal State, which I will describe in connection with Article 2 of our draft articles, to apply to the widest possible area. Nevertheless, we recognize that allowance may have to be made for the fact that the Geneva Convention on the Continental Shelf already pro-

vides coastal States with the sovereign right to explore and exploit the resources of the shelf to the depth of 200 meters with a somewhat different, and in our view less satisfactory, provision for the protection of other interests in, and uses of, the area than is provided in our draft articles. Not infrequently this 200 meter depth is seaward of 12 miles. Hence, there may be some States which will not wish to subject the area between 12 miles and 200 meters to a new legal regime, or they may object to the application, in that area, of one or more of the international standards we propose—for example, revenue sharing. If this turns out to be the case, there may still be other methods of accommodating coastal States' interests in the area between 12 miles and 200 meters which would not conflict with a new single inner limit of 12 miles.

We welcome active consultation with other delegations on this question.

In equating the territorial sea with 12 miles for the purpose of discussing the application of these draft Articles, I should reaffirm our position that our willingness to move to a 12 mile territorial sea is conditioned on international guarantee of free transit through and over straits used for international navigation.

Article 1(3). The purpose of this paragraph is to ensure that the coastal State has the exclusive right to authorize and regulate the construction, operation and use of offshore installations which affect its economic interests not only in the coastal seabed economic area, but also in the superjacent waters. This is to assure that as the world community begins to develop new uses for ocean space such as the construction of offshore ports, power plants, airports and the like, the coastal State will have all necessary jurisdiction over them, even if they are not attached to the seabed. Article 1(3) also provides for an exclusive coastal State right in the coastal seabed economic area to authorize and regulate drilling not related to resources, since such drilling is not covered by the coastal State's resource jurisdiction under Article 1(1).

Article 1(4) provides the coastal State first with the right to establish reasonable safety zones around the offshore installations affecting its economic interests and second, with the right to take appropriate measures to protect persons, property and the marine environment within such zones. To protect international community interests and the rights of other States in making use of the area, particularly with respect to freedom of navigation, the Article requires that the breadth of the zones as determined by the coastal State conform to international standards which are in existence or which may be established in the future by IMCO.

Article 2 expresses the substance of the coastal State's duties. It provides the protection of the rights of all other States in the coastal seabed economic area. It is designed to reflect our view that if coastal States are to be given such broad economic jurisdiction, this jurisdiction must be balanced so as to assure harmoney with the interest of other States in the same area. In this connection, it is important to bear in mind that coastal States are not only affected by seabed activities off their own coasts, but are also affected by the exercise of jurisdiction over similar activities off the coasts of other States.

Article 2(a) reaffirms the customary international law requirement that activities such as those described in Article 1 may not unjustifiably interfere with other uses of the area. The coastal State would ensure compliance with international standards to prevent such interference.

Article 2(b) provides, in effect, that every coastal State should have the duty to meet international standards designed to ensure that as it satisfies its economic objectives it does not, in doing so, damage either the marine environment or the coastlines of other States. For example, drilling within one coastal State's seabed economic area can, if not conducted with adequate safeguards, damage the waters beyond and the shores of other coastal States. Thus, another coastal State may suffer environmental damage, economic damage, or both. If the coastal State alone were to determine whether its own rules and regulations for oil drilling were adequate, this would not provide a satisfactory objective guarantee to the international community and other coastal States. On the other hand, we recognize that minimum standards may not be satisfactory to the coastal State. Therefore, we have provided in Article 1 (6) that the coastal State may apply higher standards if it chooses.

Article 2(d) relates to what we have called integrity of investment. While giving coastal nations complete discretion to decide the terms and conditions of foreign investment, the articles would require that agreements for such invest-

ment be strictly observed according to their terms, and that there be just compensation in the event property of foreign investors is taken.

Mr. Chairman, all of us recognize the extent to which nations of the world have in recent years grown increasingly inter-dependent economically and otherwise. It is this inter-dependence—this mutual reliance of States on each other for the efficient functioning of their societies—that makes us believe that it is everyone's interest that relationships freely entered into with respect to the exploitation of coastal State seabed resources be respected. It is on the basis of these relationships that expectations are created and plans made; disruption of greed relationships can accordingly have far-reaching implications for States as well as private parties.

I must emphasize, Mr. Chairman, that we are in no sense seeking to qualify the coastal State's exclusive resources management jurisdiction. The coastal State can exclude all foreign investment if it so elects. If it determines that it is in the coastal State's interest that other nations or their nationals be given the right to explore and exploit the resources of the coastal State, either alone or in joint ventures with the coastal State or its nationals, the coastal State will alone decide, in negotiations with others, what the terms and conditions and duration of such arrangements will be. Our proposal is simply that when those arrangements have been completed and other nations rely upon them, the coastal State should be obligated to observe them.

Mr. Chairman, with specific reference to the petroleum of the seabed, I would observe that while stability of freely negotiated contractual arrangements for the supply of petroleum is important to oil importing countries, it also should be of concern to seabed producers.

We have studied the trends of capital investments by petroleum industries of developed countries and have noted during the past few years a decided shift in investment patterns. Increasingly, albeit at higher costs both to the producer and the customer, massive investments of capital have moved to higher costs areas in which petroleum companies believed they were more assured of a continuity of supply.

This is underscored, moreover, by the enormous demands that offshore exploration and exploitation will make upon the capital available for this development in the years to come. Recent estimates suggest that the overall capital requirements of the petroleum industry may far exceed what can be generated internally.

Accordingly we believe that producing countries will best serve their own interests in attracting the capital and technology necessary for offshore development if stability of contractual arrangements is achieved through a principle such as that set forth in Article 2(d). It would seem likely that a country that has accepted a treaty obligation to ensure such stability will be substantially more attractive to international sources of capital and entrepreneurial talent.

Article 2 (e) raises the question of revenue sharing which has been with this Committee from the very beginning of its negotiations in Rio de Janeiro in 1968. My government first proposed revenue sharing in President Nixon's Oceans Policy Statement of May 23, 1970. We believe it is a reasonable method for achieving equity in a final Law of the Sea Treaty—not only for landlocked and shelfflocked countries, but for those countries who have continental margins but which will find little oil there and for those countries which seek to broaden jurisdiction over the resources of the continental margin. Revenue sharing is, in our view, an important element in an overall comprehensive settlement of the law of the sea issues which, as I indicated earlier, could have specific application to the problem of resolving the issue of the outer limit of coastal State resource jurisdiction. We note that to date few nations have spoken in support of this concept. We hope that situation will change and that a future stage of our negotiations we will be able to begin to discuss specific formulas for revenue sharing. We do not see, Mr. Chairman, how we will reach the state of discussing specific revenue sharing arrangements until nations have some better idea of the role which reevnue sharing will play in an overall political settlement of the many issues in this negotiation.

Article 4 makes clear that nothing in these Articles is to affect rights of freedom of navigation and overflight and rights to carry on other activities in accordance with international law unless otherwise expressly provided in the Convention. The meaning of the Article is clear, as is its importance.

For my government, Mr. Chairman, *Article 5* on the compulsory settlement of disputes goes to the core of this negotiation. It is the foundation of a new world order in ocean space. If nations cannot agree to settle their disputes peacefully and be bound to do so and to obey the decisions which are given, then all the standards and the rights and duties of States which will be elaborated in this treaty will be of little practical value. If we are to establish new relationships for the conduct of our affairs in the oceans, those new relationships must include a system which permit all of us to settle our differences on the basis of our rights and duties under a new comprehensive treaty without resort to the use of force and without political confrontation. This objective is, after all, the real reason for this negotiation. Without this new treaty and a system for the compulsory settlement of disputes arising under the treaty, international law will leave us with few satisfactory alternatives to assure that what we all agree to will in fact be respected. For our part, Mr. Chairman, we could not agree to a great many of the things we have ourselves proposed for a new Law of the Sea Convention in the absence of a general system of compulsory dispute settlement for ocean uses. When we speak of an overall comprehensive Law of the Sea settlement, Mr. Chairman, this issue is very much in the forefront of our minds.

In closing, Mr. Chairman, my delegation would like to emphasize that we have observed a growing rapprochement on the question of seabed economic rights in coastal areas. We are very pleased at this, because it would appear that coastal State resource jurisdiction is more important to a larger number of delegations than any other issue. We believe, moreover, that a satisfactory accommodation of interests in this area should facilitate an overall settlement in which differences with respect to the deep seabed regime and transit through international straits are more easily resolved.

We still feel, however, that while there has been increasing appreciation of the desirability of broad coastal State seabed resource management, there has been inadequate consideration of the international standards which should accompany that jurisdiction in order to provide an appropriate balance of coastal and other interests.

We look forward to discussing these proposals and the proposals of other delegations on this subject in the course of the coming weeks. The possibilities for achieving a satisfactory treaty on the Law of the Sea in 1974 in Santiago will be substantially enhanced if our discussions this summer prove fruitful.

United States of America: Draft Articles for a Chapter on the Rights and Duties of States in the Coastal Seabed Economic Area[1]

ARTICLE 1

1. The coastal State shall have the exclusive right to explore and exploit and authorize the exploration and exploitation of the natural resources of the seabed and subsoil in accordance with its own laws and regulations in the Coastal Seabed Economic Area.

2. The Coastal Seabed Economic Area is the area of the seabed which is
   (*a*) seaward of ——; and
   (*b*) landward of an outer boundary of ——.

3. The coastal State shall in addition have the exclusive right to authorize and regulate in the Coastal Seabed Economic Area or the superjacent waters:
   (*a*) the construction, operation and use of offshore installations affecting its economic interests, and
   (*b*) drilling for purposes other than exploration and exploitation of resources.

4. The coastal State may, where necessary, establish reasonable safety zones around such offshore installations in which it may take appropriate measures to protect persons, property, and the marine environment. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function

[1] This Chapter deals with seabeds resources, and does not deal with fisheries. The proposal of the United States with respect to fisheries beyond the territorial sea was introduced in Subcommittee II on August 4, 1972 (A/AC.138/SC.II/SR.40) (*Official Records of the General Assembly, Twenty-seventh session, Supplement No. 21, A/8721*).

of the installation. The breadth of the safety zones shall be determined by the coastal State and shall conform to international standards in existence or to be established pursuant to Article 3.

5. (a) For the purposes of this Chapter, the term "installations" refers to all offshore facilities, installations, or devices other than those which are mobile in their normal mode of operation at sea.

(b) Installations do not possess the status of islands. They have no territorial sea or Coastal Seabed Economic Area of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

6. The coastal State may, with respect to the activities set forth in this Article, apply standards for the protection of the marine environment higher than those required by applicable international standards pursuant to Article 2.

7. The coastal State may, with respect to the activities set forth in this Article, take all necessary measures to ensure compliance with its laws and regulations subject to the provisions of this Chapter.

ARTICLE 2

The coastal State, in exercising the rights referred to in Article 1, shall ensure that its laws and regulations, and any other actions it takes pursuant thereto in the Coastal Seabed Economic Area, are in strict conformity with the provisions of this Chapter and other applicable provisions of this Convention, and in particular:

(*a*) the coastal State shall ensure that there is no unjustifiable interference with other activities in the marine environment, and shall ensure compliance with interntational standards in existence or promulgated by the Authority or the Inter-Governmental Maritime Consultative Organization, as appropriate, to prevent such interference;

(*b*) the coastal State shall take appropriate measures to prevent pollution of the marine environment from the activities set forth in Article 1 and shall ensure compliance with international standards in existence or promulgated by the Authority or the Inter-Governmental Maritime Consultative Organization, as appropriate, to prevent such pollution;

(*c*) the coastal State shall not impede, and shall co-operate with the Authority in the exercise of its inspection functions in connection with subparagraph (b) above;

(*d*) the coastal State shall ensure that licenses, leases, or other contractual arrangements which it enters into with the agencies or instrumentalities of other States, or with natural or juridical persons which are not nationals of the coastal State, for the purpose of exploring for or exploiting seabed resources are strictly observed according to their terms. Property of such agencies, instrumentalities or persons shall not be taken except for a public purpose, on a non-discriminatory basis, nor shall it be taken without the prompt payment of jut compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken and adequate provision shall have been made at or prior to the time of the taking to ensure compliance with the provisions of this paragraph;

(*e*) the coastal State shall make available in accordance with the provisions of Article —, such share of revenues in respect of mineral resources exploitation from such part of the Coastal Seabed Economic Area as is specified in that Article.

ARTICLE 3

1. All activities in the marine environment shall be conducted with reasonable regard to the rights of the coastal State referred to in Article 1.

2. States shall ensure compliance with international standards in existence or to be promulgated by Inter-Governmental Maritime Consultative Organization in consultation with the Authority:

(*a*) regarding the breadth, if any, of safety zones around offshore installations;

(*b*) regarding navigation outside the safety zones, but in the vicinity of offshore installations.

ARTICLE 4 [2]

Nothing in this Chapter shall affect the rights of freedom of navigation and overflight and other rights to carry on activities unrelated to seabed resource exploration and exploitation in accordance with general principles of international law, except as otherwise specifically provided in this Convention.

ARTICLE 5

Any dispute with respect to the interpretation or application of the provisions of this Chapter shall, if requested by either party to the dispute, be resolved by the compulsory dispute settlement procedures contained in Article —, of Chapter —.

STATEMENT BY JOHN NORTON MOORE, VICE CHAIRMAN OF THE U.S. DELEGATION TO THE COMMITTEE ON THE PEACEFUL USES OF THE SEABED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION—SUBCOMMITTEE III, JULY 18, 1973

Mr. Chairman, the problem of marine pollution extends to all of the world's oceans and directly affects each of us. The oceans are a major part of the global ecosystem and their degradation can threaten the health and well-being of everyone. Actions taken by the international community in recent conferences indicate a recognition of this fact and a pledge to take all necessary measures to prevent marine pollution. These actions also indicate increasing recognition that the problem of marine pollution is a global problem requiring a truly international solution. We must also recognize that the many new and intensified ocean uses to be considered by the Law of the Sea Conference may pose significant risks of environmental damage which must be dealth with promptly and effectively. To meet these needs, my delegation has prepared and distributed to this Committee in document number A/AC.138/SC.III/L.40 draft articles for the protection of the marine environment.

The Law of the Sea Conference can and must establish an adequate jurisdictional basis for a coordinated international response to global marine environment problems. Such an adequate basis requires an understanding of the diverse threats to the marine environment and the need for a response tailored to each. Problems raised by vessel-source pollution are fundamentally different from those raised by land based sources or seabed resource activities and they require different solutions. An adequate basis also requires that we differentiate between jurisdiction to set standards and jurisdiction to enforce such standards. For example, jurisdiction to set vessel construction standards may raise quite different considerations than jurisdiction to enforce such standards. Again, Mr. Chairman, these differences require different solutions. My delegation has sought in its draft articles to meet these points.

The first section of our draft articles refers to basic obligations to protect the marine environment. The second section states the competence of international organizations and States to establish standards for dealing with a variety of problems concerning protection of the marine environment. The third and fourth sections set out a general basis for enforcement with respect to these problems, including a system of cooperative enforcement involving flag States, port States, and coastal States. The fifth section gives the coastal States rights to take action in extraordinary situations to protect against environmental threats to their interests. Finally, Mr. Chairman, the articles contain important new procedural provisions, provisions relating to liability and provisions for compulsory settlement of disputes.

Taking up each of these sections in turn, the first section takes note of the work of the working group of this Subcommittee in dealing with the basic obligation to protect the marine environment. Thus, the draft articles build on the work already done by the Working Group.

In the second section dealing with jurisdiction to establish standards, we differentiate between pollution from vessels and pollution from activities under

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[2] It is assumed that the general articles of the Law of the Sea Convention will contain an article such as Article 4 applicable to all areas beyond the territorial sea. Such an article would obviate the need for several articles making the same point here and in other chapters of the Convention.

coastal State jurisdiction in the Coastal Seabed Economic Area, such as resource exploration and exploitation and construction and operation of offshore facilities.

As to seabed-source pollution, we provide that the International Seabed Resource Authority to be set up under the Convention should establish standards for activities under coastal State jurisdiction in the Coastal Seabed Economic Area and for those activities which the Authority controls in the area beyond. These standards will ensure effective measures to control such pollution. Since, of course, the coastal State will have primary responsibility for the management and control of seabed exploration and exploitation activities, coastal States should have the right to establish stricter standards for such activities under their jurisdiction in the Coastal Seabed Economic Area.

Mr. Chairman, during the March/April meeting of the Seabed Committee, my delegation introduced a working paper on the question of the competence to set standards for control of pollution from vessels. We have discussed in the Working Group the reasons supporting our conclusion in that paper that standards for vessel source pollution must be internationally established and we need not elaborate those reasons again here. My delegation, however, would like to thank the members of the Subcommittee who have commented on our working paper.

Mr. Chairman, because of its technical competence and experience we believe that IMCO should be designated as the international organization responsible for establishing these international standards for vessel-source pollution. We are sensitive to the views expressed by some delegations who have felt that the IMCO treaty process has not always moved rapidly enough to deal with newly-emerging problems; that the environmental expertise of IMCO should be strengthened; or that the structure was not sufficiently open to concerned States who would like to participate. Recently, we have put forward in the IMCO Council a proposal for changing the IMCO structure to create a new Marine Environment Protection Committee for dealing with vessel-source pollution. This proposal would ensure that new technology and new problems are adequately and rapidly dealt with and that all nations interested in participating in the setting of such standards would have an opportunity to do so. There are two points I would like to stress in this connection:

First, membership in the Committee will be open so that any concerned State would be able to participate equally in the formulation of regulations;

And second, the new Committee will be empowered to adopt regulations and to circulate them directly to Governments without the review or approval of the IMCO Assembly or Council. Such regulations would then come into effect automatically unless objected to by a specified number or a category of States.

Returning to the draft articles introduced by my delegation today, Mr. Chairman, the articles also specifically provide for the international establishment of special standards for special areas and problems. We recognize the need for such special standards in order to cope effectively with special ecological circumstances of particular regions and thus we have emphasized the need to respond to these needs. Also, I should note that the proposed Marine Environment Protection Committee would have regional subcommittees to consider and develop solutions for regional problems. Of related interest, the articles also provide for cooperation among the various international organizations active in the environment field, including the United Nations Environment Program.

In addition to establishing international competence to make standards for vessel source pollution, the draft articles do provide for two situations in which States would also have the authority on their own to set stricter standards for such pollution. Port States, in accordance with their general right to regulate vessels entering their ports would be able to apply higher standards to such vessels and, of course, flag States would continue to be able to do so for their own flag vessels.

Turning to the problem of enforcement, the sections on enforcement, Sections C, D, E, and F, of the draft articles are intended to provide adequate enforcement authority to cope with the variety of pollution problems arising from seabed activities and from vessels.

With respect to pollution from seabed activities, the coastal State is given complete authority to enforce both its own and international standards for those activities under its jurisdiction in the Coastal Seabed Economic Area. Such activities are essentially under the management and control of the coastal State and it should thus also have the authority and responsibility to ensure that such

activities do not pollute the marine environment. Since the coastal State is not the only State that may be damaged or affected by pollution from such seabed activities, we have provided for international inspection to ensure compliance with the international standards.

With respect to pollution from vessels, flag States, port States, and coastal States would all share specified enforcement rights and duties. Moreover, we have provided that States may, by agreement, authorize other States to act for them in carrying out these rights and duties.

First, the flag State would continue to have enforcement responsibility over its vessels although such authority would not be exclusive. It would also assume a specific obligation to enforce international standards against vessels flying its flag, subject to a right in other States to resort to compulsory dispute settlement procedures to make certain that this obligation is fully met.

Second, the port State could enforce pollution control standards against vessels using its ports. In this connection, I would like to emphasize that we provide, in Article VII, that the port State can take enforcement action with respect to violations regardless of where they took place.

Finally, the coastal State will have rights and mechanisms that will fully protect its environmental interests. The draft articles contain methods for dealing with the four major marine pollution problems facing coastal States: Serious maritime casualties off its coast; violations of international standards presenting imminent danger of major harmful consequences to the coastal States; persistent and unreasonable failure of a State to enforce the international standards with respect to vessels flying its flag; and, also, general violation of the standards.

Maritime casualties may threaten major harmful consequences to the coastal State. We feel that the coastal State should be able to take direct action to prevent, mitigate, or eliminate any such problem off its coast. The 1969 Intervention Convention provides such a right with respect to oil pollution and it is presently being expanded to apply to other substances. Certainly all coastal States must be able to act in such situations without delay.

There is also another type of situation in which coastal States should be able to take direct action. In the case of a violation of the international standards which is sufficiently serious to produce imminent danger of major harmful damage, the coastal State should also be allowed to take direct enforcement measures, including detention or, where absolutely necessary, arrest, in order to prevent, mitigate or eliminate the danger. This right goes substantially beyond that of the Intervention Convention since it is quite possible to have a serious pollution problem without the occurrence of a maritime casualty.

To adequately protect coastal States, we must also eliminate persistent and unreasonable flag State failure to enforce the applicable standards. To achieve this, in addition to providing for general enforcement actions by other States, we provide a right for any State, coastal or not, to lodge a complaint with the dispute settlement machinery to the effect that a particular flag State has unreasonably and persistently failed to enforce the international standards. If the complaint is upheld, the dispute settlement machinery may then specify additional enforcement measures which may be taken by coastal States against all vessels of that flag violating the international standards. Such measures could include measures to be taken by coastal States on the high seas. Since such measures could be taken until the flag State itself undertakes continuing effective enforcement, the new right will create a strong inducement for flag states to effectively control their vessels.

Finally, we have set up a general system, in Sections D and F, to deal with ordinary violations in an effective manner. Under this system, any coastal State which suspects a violation of the international standards, for example an oil discharge, may request the suspected vessel to give information specifying its name, next ports of call and other relevant information. The vessel is required under the draft articles to supply the information. If the vessel is headed for a port in the coastal State, the enforcement vessel can then request an immediate on-board inspection and can deny port entry if the request is refused. If, however, the suspected vessel is headed elsewhere, the coastal State may forward evidence to a port of call of the vessel or to the flag State, whichever it wishes. Whichever State is notified, port State or flag State, is required to undertake an investigation in which the coastal State has a right to participate. If the investigation reveals a violation, then the port State may institute proceedings and if the port

State does not do so, the flag State must. In this connection, we propose an article requiring adequate penalties. I would also like to emphasize again that the flag State obligations to institute proceedings and to ensure adequate penalties are enforcable through compulsory dispute settlement.

Mr. Chairman, we believe that this system will provide an effective enforcement regime which will ensure that violations are deterred. It will also provide effective protection for those States which may not have a large capability for offshore enforcement. At the same time, through reasonable procedures such as bonding, we ensure that voyages can continue after necessary investigations are carried out so long as there would be no unreasonable threat to the marine environment.

The draft also includes articles relating to the issues of State responsibility, penalties, liability for unreasonable enforcement measures, multiple proceedings and cooperation. Most of these articles are self-explanatory and we will make any necessary additional comments on them when they are discussed in the Working Group.

Finally, the draft articles provide for compulsory dispute settlement so that all States, coastal and noncoastal, will have adequate remedies to ensure compliance with all aspects of these new procedures and responsibilities. A major interest which all nations share is to reach agreement on a Law of the Sea Convention which will minimize uncertainty and potential conflict among nations. If the rights and duties of States to be elaborated in the Convention are to be meaningful, we must agree to settle all disputes peacefully. The United States could not, in fact, agree to many proposals we have made ourselves in the Seabed Committee if there is no general system of compulsory dispute settlement.

Mr. Chairman, I would like to add a few additional comments relating to the proposal recently made by the United States for establishing a new Marine Environment Protection Committee in IMCO. I have attached a copy of that proposal for the information of the members of the Committee.

First, the proposal does not in any way detract from the jurisdiction of the Seabed Committee or prejudice the options of the Law of the Sea Conference regarding the jurisdiction of States. The Law of the Sea Conference will be a Plenipotentiary Conference charged with determining the basic jurisdictional framework for protection of the marine environment and that competence cannot in any way be altered by actions in another forum. Regardless of our differences on coastal State jurisdiction, we all agree that there must be strong international standards. Our proposal in IMCO is designed to ensure that those international standards are expeditiously and effectively established and we believe that we should move vigorously in every forum to achieve these ends.

Second, the proposal marks a step forward toward a more open system of establishing international standards for vessel source pollution—a system in which States affected by such standards would be able to participate in setting them. Membership in the new Committee will be open so that any concerned State could participate equally in the formulation of standards. States representing all major community interests at stake including protection of the marine environment and navigational interests could thus participate in the decision process.

Again, Mr. Chairman, let me emphasize that the standards adopted by the new committee will be directly circulated to States party to the relevant convention and will not be subject to review by the IMCO Council or Assembly. Such standards would come into effect automatically unless objected to by a certain number or category of States. This is essential if standards and regulations are to be rapidly brought into force in response to changes in technology or new knowledge about the marine environment.

Third, there can be no question but that IMCO has broad authority to deal with vessel source pollution problems. The IMCO Charter clearly authorizes such activities and the historical practice of IMCO strongly supports it. IMCO has been active in the field of vessel pollution control since its inception. Conventions concluded under its auspices include the 1962, 1969 and 1971 Amendments to the 1954 Oil Pollution Convention, the Civil Liability and Compensation Fund Conventions, as well as the draft articles prepared for the October Marine Pollution Conference. Many States have participated in this work of IMCO and are parties to one or more of these Conventions.

In closing, Mr. Chairman, the Law of the Sea Conference will establish the basic jurisdictional framework for the protection of the marine environment

well into the 21st Century. It is incumbent upon all of us to ensure a forward looking framework which will effectively protect that environment. My delegation has tabled today draft articles which we believe will ensure such a framework. We believe also that they will fully protect the interests of coastal States as well as maritime nations and other members of the international community. We should remember in this connection that all nations, whether coastal States, maritime nations, or both, have a common interest in effective protection of the marine environment. And all nations have a common interest in avoiding unnecessary increases in transportation costs and unnecessary sources of potential disagreement among nations. The challenge for this Committee, is to find a framework which will bring together all nations in recognizing these common intersts. We hope, Mr. Chairman, that the draft articles which we have submitted today will assist in meeting this challenge.

U.S. Draft Articles on the Protection of the Marine Environment and the Prevention of Marine Pollution

SECTION A: OBLIGATIONS TO PROTECT THE MARINE ENVIRONMENT

Article I: General Obligation

Article II: Particular Obligations

(Two articles on these subjects were discussed during the March/April meeting of the Seabed Committee. We take note of those drafts and the footnotes and will, of course, participate in the later consideration of them in the Working Group and the Subcommittee.)

SECTION B: COMPETENCE TO ESTABLISH STANDARDS TO PROTECT THE MARINE ENVIRONMENT

Article III: International Standards in General

1. The Authority established by Chapter — of this Convention shall have primary responsibility for establishing, as soon as possible and to the extent they are not in existence, international standards with respect to the seabeds.

2. The Intergovernmental Maritime Consultative Organization shall have primary responsibility for establishing, as soon as possible and to the extent they are not in existence, international standards with respect to vessels.

3. Such standards may include special standards for special areas and problems, taking into account particular ecological circumstances.

4. These organizations shall cooperate with each other, other international organizations in the field, and the United Nations Environment Program.

Article IV: The Right and Duty to Implement Standards

States shall adopt laws and regulations implementing international standards in respect of marine based sources of pollution of the marine environment or may adopt and implement higher standards:

(*a*) in the exercise of their rights in the [Coastal Seabed Economic Area] with respect to the activities set forth in Chapter —, Article — of this Convention;

(*b*) for vessels entering their ports and offshore facilities;

(*c*) for their nationals, natural or juridical, and vessels registered in their territory or flying their flag.

SECTION C: GENERAL COMPETENCE TO ENFORCE STANDARDS TO PROTECT THE MARINE ENVIRONMENT

Article V: Enforcement Instrumentalities

For the purposes of this Chapter, a State shall act through duly authorized government vessels, aircraft, or officials. Any State may, by agreement, authorize one or more other States to act for it in taking pollution enforcement measures and shall so inform other States through IMCO, or directly.

Article VI: Enforcement in the [Coastal Seabed Economic Area]

1. In the exercise of its rights in the [Coastal Seabed Economic Area] pursuant to Chapter —, the coastal State shall enforce the standards applicable in accordance with the provisions of this Chapter to the activities set forth in Chapter —, Article — of this Convention.

2. The Authority established in Chapter —, may inspect, in accordance with Article —, the activities specified in paragraph one of this Article, in cooperation with the coastal State, to ensure that the activities are being conducted in compliance with the standards applicable in accordance with the provisions of this Chapter.

Article VII: Ordinary Enforcement Against Vessels

1. A State shall enforce standards applicable in accordance with the provisions of this Chapter to vessels registered in its territory or flying its flag (such State is hereinafter referred to as the "flag State").

2. A State may enforce standards applicable in accordance with the provisions of this Chapter to:

(*a*) vessels using its ports or offshore facilities irrespective of where the violation occurred, provided, however, that such proceedings are commenced no later than [three years] after such violation occurred (such State is hereinafter referred to as the "port State").

(*b*) vessels in its territorial sea for violations therein, except as otherwise provided in this Convention.

SECTION D: COOPERATIVE ENFORCEMENT MEASURES AGAINST VESSELS

Article VIII: The Right to Monitor

A vessel within or beyond the territorial sea shall upon request by any duly authorized government vessel, aircraft or official in the vicinity which has reason to suspect a violation of the applicable international standards, give information specifying its name, State of registry, next scheduled ports of call, and any other information required to be given by the applicable international standards.

Article IX: Denial of Port Entry

Any State may inform a vessel at any time that it will be denied entry to its ports for non-compliance with any of its environmental requirements or its refusal to allow an immediate on-board inspection to determine the source of possible pollution. Any State may, by agreement, authorize one or more other States to act for it in this respect and shall so inform other States through IMCO, or directly.

Article X: The Duty to Notify

If a State has reason to suspect a violation of the applicable international standards, it shall notify the flag State or the State of one of the next ports of call or both, of the alleged violation and forward the available evidence.

Article XI: Port State Duties

Upon receipt of such notification of the alleged violation, the port State shall undertake, upon arrival of the vessel if within six months of the alleged violation, an immediate and thorough investigation. The port State shall promptly inform the flag State and the notifying State of the results of the investigation and its actions including a statement as to whether it intends to institute proceedings and the result of any such proceedings.

Article XII: Flag State Duties

Upon receipt of notification if within six months of an alleged violation, the flag State shall undertake an immediate and thorough investigation. If the result of its or a port State's investigation indicates that a violation has occurred, the flag State shall institute proceedings against the vessel, its operator, its master, or its owner, provided that it shall not be required to do so if proceedings have already taken place in respect of violation. The flag State shall inform the notifying State and any other State which could institute proceedings of its decisions and actions.

Article XIII: Participation in Investigations

A notifying State may participate in any investigation undertaken pursuant to its notification. A flag State may designate an observer for any investigation involving one of its flag vessels. An expert or experts designated by IMCO shall be permitted to participate in any investigation if so requested by a State concerned and such expert or experts may file a separate report with IMCO.

SECTION E: EXTRAORDINARY ENFORCEMENT MEASURES AND INTERVENTION AGAINST VESSELS

Article XIV: Coastal State Remedy Against Flag States

If the dispute settlement machinery established in Chapter — finds, upon petition by any State, that a particular flag State has unreasonably and persistently failed to enforce the applicable international standards against its flag vessels, the machinery may specify additional enforcement measures which may be taken by coastal States for violations by any vessel of that flag. Such authorization shall be interim in nature and shall be limited to those measures necessary to bring about adequate flag State enforcement. Such authorization shall be rescinded upon a showing by the flag State that it is taking adequate measures.

Article XV: Emergency Coastal State Enforcement Procedures [3]

Beyond the territorial sea, a coastal State may take such reasonable emergency enforcement measures as may be necessary to prevent, mitigate or eliminate imminent danger of major harmful damage to its coast or related interests from pollution arising from a particular occurrence reasonablly believed to be related to a violation of the applicable international standards.

Article XVI: Intervention

(The 1969 Intervention Convention allows coastal States to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution by oil following upon a maritime casualty or acts related to such casualty, which may reasonably be expected to result in major harmful consequences. Negotiations are presently under way in IMCO to expand the Convention to cover other substances in addition to oil and the issue is on the agenda for the October 1973 Conference on Marine Pollution. Consequently, it may be advisable to await the results of these negotiations before taking action on the issue in the law of the sea negotiations.)

SECTION F: GENERAL ARTICLES RELATING TO ENFORCEMENT

Article XVII: Release of Vessels

A vessel shall be permitted to continue its voyage and shall not be detained longer than its presence is essential for investigative purposes. It shall be promptly released if the investigation does not reveal a violation of the standards applicable in accordance with the provisions of this Chapter. Where there continues to be reason to believe a violation has occurred, vessels shall be promptly released under reasonable procedures such as bonding except where such release would present an unreasonable threat of harm to the marine environment or where other action is required or authorized by the applicable international standards.

Article XVIII: Penalties

All violations of the applicable international standards shall be prohibited under the law of each State. The penalties provided for such violations shall be applied so as to guarantee fair treatment, shall be adequate in severity to discourage any such violation, and shall, in any case, be at least as severe as those applied by that State for violations in its territorial sea.

Article XIX: Multiple Proceedings

Whenever a State other than the flag State has instituted proceedings against a vessel, its operator, its master, or its owner, no other proceedings in respect of the same violation may be instituted except by the flag State of the vessel or by any other State in whose territorial sea or internal waters the violation has taken place. In assessing penalties, a State shall take into account any penalties assessed by other States in respect of the same violation. This shall not restrict the right of any State or person to institute a suit or claim for damages caused by pollution.

Article XX: Cooperation

States shall afford one another the greatest measure of assistance in carrying out the objectives of this Chapter and in particular in providing evidence and witnesses necessary for investigations and proceedings.

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[3] It should be noted that this differs from and is in addition to the measures set out in the Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties.

SECTION G: OTHER ARTICLES RELATING TO THE MARINE ENVIRONMENT

Article XXI: Liability for Unreasonable Measures

A State shall be liable for damage resulting from investigative, enforcement or intervention measures exceeding those reasonably necessary in the light of available information.

Article XXII: State Responsibility

1. A State has the responsibility to take appropriate measures to ensure, in accordance with international law, that activities under its jurisdiction or control do not cause damage to the environment of other States or to the marine environment beyond the limits of national jurisdiction.

2. States shall undertake, as soon as possible, jointly to develop international law regarding liability and compensation for pollution damage including, *inter alia*, procedures and criteria for the determination of liability, the limits of liability and available defenses.[4]

3. In the absence of other adequate remedies with respect to damage to the environment of other States caused by activities under the jurisdiction or control of a State, that State has the responsibility to provide recourse for foreign states or nationals to a domestic forum empowered:

(a) to require the abatement of a continuing source of pollution of the marine environment, and

(b) to award compensation for damages.

Article XXIII: Sovereign Immunity

This Chapter shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each State shall ensure, by the adoption of appropriate measures, that all such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Chapter.

Article XXIV: Dispute Settlement

Any dispute with respect to the interpretation or application of the provisions of this Chapter shall, if requested by any party to the dispute, be resolved by the compulsory dispute settlement procedures contained in Chapter —.

STATEMENT OF HON. RUSSELL E. TRAIN, CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY, EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES, BEFORE THE COUNCIL OF THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO), LONDON, JUNE 5, 1973

Mr. Chairman, this is a propitious occasion.

As you know, today, June 5, has by resolution of the United Nations General Assembly been designated "World Environment Day." The Stockholm Conference, in proposing last year that June 5 be henceworth so designated, recommended "that on that day every year the United Nations system and the Governments of the world undertake world-wide activities reaffirming their concern for the preservation and enhancement of the human environment." It is especially appropriate, therefore, that we meet today, in a United Nations forum, to discuss urgent matters concerning the protection of the environment of over seventy percent of the surface of our planet, and ultimately the health and welfare of all mankind. The problem of ocean pollution is, uniquely, an international problem; and, if the necessary international solutions are to be developed, all the Nations here represented must rededicate themselves to the principle of cooperative action to address common environmental concerns.

I appear before your Council, Mr. Chairman, not only as environmental advisor to the President of the United States, but as the designated Chairman of the United States Delegation to the October Conference on Marine Pollution. I am appreciative of this opportunity to address you concerning my country's hopes for the Conference, and for the future of this Organization.

The marine environment is increasingly threatened with grave damage from seaborne commerce in polluting substances. The transport of oil by sea, for ex-

[4] The Subcommittee may wish to consider whether or to what extent the law of the sea negotiations provide the appropriate forum to address the details of this issue.

ample, has tripled since 1960, and, some experts predict, will double between this year and 1980—a six-fold increase in twenty years. The oceans are too large and vital a part of the global ecosystem to allow the danger of pollution from ocean commerce to grow unchecked. Not only are resources and nourishment essential to billions of human beings increasingly threatened by pollution of the seas, but our very survival on this planet is dependent upon the healthy functioning of the natural systems of the seas.

The international community has resolved that the measures necessary to control ocean pollution be taken, and that they be taken soon. The Stockholm Conference on the Human Environment stated the "common conviction" that "States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea," and further, that "States shall ensure that international organization play a co-ordinated, efficient and dynamic role for the protection and improvement of the environment." Measures to achieve these ends must be taken at once. Both the Stockholm Conference and the IMCO Assembly have, for example, stressed the urgency of ending intentional pollution from vessels by the middle of the present decade.

In short, we are faced with a challenge—indeed a mandate—recognized by the international community. It is two-fold: First, we must develop—*now*—strong controls on the discharge from vessels of pollutants into the seas. Second, we must create effective and dynamic international institutional arrangements to ensure that these controls are adapted, revised, and supplemented over the years to come, in light of man's increasing knowledge of the marine environment and his increasing capability to deal with the problems he creates for it.

Concerning the first aspect of this challenge, the need to develop strong controls on pollution from oil and noxious substances, the October Conference is but four months away. My Government believes that the Conference must produce a basic new convention regulating vessel discharges which will be acceptable to all States and which will, together with the Ocean Dumping Convention concluded here in London last November, provide a comprehensive system for controlling all types of vessel-source pollution. The new convention must establish stringent anti-pollution standards. And it must establish an effective system for their enforcement. The Fifth Draft of the Convention, produced last winter, makes notable strides. But, in the view of my Government, it does not go far enough in all necessary respects. We will arrive in October prepared to work in a coopeartive spirit and eager to attain the best possible results. In that spirit, we hope that the Marine Pollution Conference will avoid unnecessary difficulties that could arise from addressing controversial jurisdictional issues which the United Nations General Assembly has referred to the Law of the Sea Conference for resolution.

My main concern today, however, is with the second aspect of the challenge we face—the need to ensure that we develop international institutional arrangements adequate to regulate effectively, on an on-going and continuous basis, vessel-source discharges.

In the view of the United States, comprehensive authority to regulate pollution from vessels under international conventions must be vested in a single international organization. A single organization can ensure that controls on vessel discharges, which must necessarily include limitations on ship design, construction, and operation, are consistent with each other. A single organization can ensure that such controls are uniform throughout the globe. A single organization can fairly weigh the interests of all States in seaborne commerce and in protecting the marine environment. In short, a single organization with broad authority can most effectively assess the inter-related problems of ship-generated pollution, and devise the necessary inter-related controls.

Mr. Chairman, in the view of my Government, that organization can, and properly should be, the one whose governing Council I am addressing at this moment. In our view, the Inter-Governmental Maritime Consultative Organization should function as the international agency with regulatory responsibility for ensuring that controls on ship-generated pollution keep pace with our knowledge of the problem and our capacity to deal with it.

It is also our view, Mr. Chairman, that IMCO, in order to be fully equal to the task, must supplement its organizational structure so that it can consider and adopt regulations to control vessel pollution more expeditiously. In outlining

the steps which we believe IMCO must take to increase its efficiency. I wish to make it clear at the outset that our proposals do not imply criticism of the Organization's past or present performance. Long before environmental protection was a major international concern, IMCO had begun to cope with the problem of pollution of the seas by oil. The environmental agreements concluded under IMCO's auspices since 1962—and I have testified to this effect before the United States Senate—constitute a remarkable record of achievement. In that light, Mr. Chairman, I hope that everyone in this room understands that the United States proposals are not made out of dissatisfaction with the job which IMCO has done to date, but rather from a new appreciation of the magnitude of the job which lies ahead.

The tasks ahead will be difficult and complex. The October Conference will adopt detailed regulations controlling vessel pollution which, for the first time, will limit discharges of literally thousands of substances in addition to oil. Those regulations must be adapted, revised, and supplemented in light of an explosion of scientific knowledge about the effects of pollutants in the marine environment and a dramatic increase in the magnitude of seaborne commerce. Similarly, the administration of the recently concluded Convention on Ocean Dumping, which is properly the province of IMCO if it is to function as the single international regulatory authority on vessel pollution, will require large scientific and administrative efforts.

Mr. Chairman, the Maritime Safety Committee has performed admirably in pollution-related matters in recent years. But, very frankly, we believe that it could not attempt to meet the environmental challenges ahead without seriously jeopardizing its ability to perform its primary, and essential, task of safeguarding life at sea. The MSC has just begun to prepare for a SOLAS Conference in 1974, and its various subcommittees have substantial commitments to nonenvironmental enterprises well into the future. Moreover, the MSC has this year undertaken additional responsibilities in the safety area as a result of the Collision Regulation and Container Safety Conventions. It is clear, in short, that the Maritime Safety Committee will have its hands full with matters directly related to safety at sea; and any attempt to significantly broaden its environmental concerns would only result in the dilution of IMCO's efforts in both areas.

The task of adopting and revising international regulations on vessel discharges and dumping will be a full-time job. If IMCO is to accept that challenge, it must in our view create within its organizational structure a new permanent body to exercise its environmental responsibilities. The United States therefore proposes that IMCO create a committee, open to all member States, which might be called the Marine Environment Protection Committee.

The new Committee would coordinate and administer all IMCO activities concerning marine pollution. Its primary function would be to exercise the authority conferred on the Organization to adopt and revise regulations under international conventions for the prevention and control of vessel-source pollution. Thus, among other responsibilities, the Committee would administer the 1954 Convention for the Prevention of Pollution of the Sea by Oil, as amended, and the new Convention for the Prevention of Pollution from Ships, to be developed at the October Conference. In the view of the United States, it should also administer the 1972 Convention on Ocean Dumping; and, when the contracting parties to that Convention meet to resolve the organizational issue, we will strongly urge that such an arrangement be adopted.

The Marine Environment Protection Committee must be able to act quickly and effectively to achieve our dual objectives of protecting the ocean environment and facilitating international commerce. At both the Container and COLREG Conferences, the United States supported measures providing for expenditious amendment of those conventions. In the meetings preparatory to the October Conference, we have supported similar expeditious amendment procedures for the new Convention for the Prevention of Pollution from Ships. Creation of the Marine Environment Protection Committee will, in our view, together with expeditious amendment procedures, provide the basis for a regulatory process which is responsive to the need and effective.

The United States will propose in October that the Marine Pollution Conference adopt measures authorizing the new Committee to act with respect to the regulations under the new vessel pollution Convention. We will also urge the parties to the Ocean Dumping Convention to adopt a similar system. In essence, our proposal will be as follows:

(1) With regard to marine pollution from vessels, the Marine Environment Protection Committee would be empowered to consider, develop, adopt, and communicate to Governments new regulations under the Conventions for which it was responsible or modifications to existing regulations.

(2) Such new or modified regulations would enter into force on a date specified by the Committee unless objections were received from a substantial number of States party to the relevant convention, including a designated number or category of States to ensure a balance of maritime and coastal interests.

(3) The Committee would be empowered to adopt and bring into immediate force appendices to regulations, without further consideration by Contracting States, when the action received the unanimous consent of those participating in the Committee.

Mr. Chairman, today is not the occasion to discuss in detail procedural matters relating to this proposal, such as the voting arrangements necessary for adoption by the Committee of new or revised vessel pollution regulations, the exact requirements for entry into force of such regulations, or means for ensuring coordination between the new Committee and the Maritime Safety Committee when such regulations affect vessel safety. With respect to regulations under the proposed 1973 Convention, the United States will circulate specific proposals in time for thorough study prior to the October Conference. For present purposes, I would merely stress that, in the view of my Government, IMCO's marine environment regulatory responsibilities under key vessel pollution conventions should be exercised by a new standing committee, in which all IMCO members interested in protecting their coastlines and the marine environment would have full rights of participation.

In addition, the Marine Environment Protection Committee would consider on a continuing basis all related matters pertaining to the pollution of the seas by vessels and take appropriate action, including cooperation on environmental matters with other UN agencies, such as the UN Environmental Program, and international organizations, such as the new seabeds authority which may be established by the Law of the Sea Conference. It could diseminate scientific, technical, and economic information concerning ocean pollution and its control. It could advise member States, particularly developing countries, on technical matters, and provide practical information, recommendations, and guidelines concerning:

(1) the effects of marine pollution,

(2) methods for preventing such pollution, and

(3) measures for dealing with it when it occurs, such as contingency planning for detection, containment, and countermeasures.

The Committee would, moreover, be in a position to cooperate with various expert organizations throughout the world, and would facilitate the exchange among governments of information concerning research and development activities in the field of vessel pollution control.

The Committee should also consider the need for establishment of regional subcommittees, which could study problems unique to a geographic area and forward proposals to the Committee for action. International regulations can be designed to deal with special problems in special areas, drawing upon the proposals and expertise of those most familiar with the problems.

Finally, the Committee would receive detailed information on ship discharges under provisions in the proposed new Convention, and we might give thought to possible use of Committee staff in inspection and surveillance roles to aid enforcement of IMCO's marine pollution conventions.

Mr. Chairman, this outline of the work of the Marine Environment Protection Committee necessarily contemplates increased administrative and technical efforts on the part of the Organization, with obvious budgetary consequences. I can state at this time, however, that the United States is fully prepared to contribute its fair share of the funding of the Committee's work. We recognize that the role of Secretariat of IMCO must be enhanced and its staff augmented to permit assistance to Member States in the implementation of the measures we agree on to prevent pollution arising from maritime activities. We would hope, moreover, that the Law of the Sea Conference will take these and related matters into account in considering the collection and distribution of revenues from seabed resource activities.

To conclude, Mr. Chairman, we believe that 1973 is a year of unparalleled challenge and opportunity for IMCO. In the context of the United Nations overall review of Law of the Sea—and I would urge the experts on IMCO affairs in the various Governments to become active in their nations' participation in the Law of Sea negotiations and vice versa—this organization can build a new and vital role in the international system for controlling marine pollution: With the cooperation of all States, IMCO can—this year—conclude a new basic convention establishing a comprehensive system for controlling vessel discharges. And, through the creation of the Marine Environment Protection Committee we have proposed, IMCO can—this year—ensure that it will in the future, in the words of the Stockholm Conference, "play a co-ordinated, efficient and dynamic role for the protection and improvement of the environment." In short, IMCO can—this year—move to resolve both the standard-setting and institutional aspects of the challenge of protecting the seas from vessel-source pollution. I am confident that it will do so.

In terms of what the IMCO Council can do at this session to launch consideration of the proposed new Committee, I invite your decision to create in ad hoc committee to study and report on the proposal promptly, so that our October discussions can take account of the concept. We ourselves will cooperate fully. We urge other member Governments to facilitate early discussions of the proposal and to ensure that their agencies responsible for environmental concerns and the Law of the Sea negotiations be brought into these discussions.

I look forward to returning to IMCO in October. The delegation which I, as Chairman, and the United States Coast Guard Commandant Admiral C. R. Bender, as Vice-Chairman, will lead to the Conference on Marine Pollution will include a wide range of environmental, technical, legal and maritime experts. I hope to see many of the persons in this room represented on similarly broad based delegations, and to renew with you our common efforts to build strong and effective protection of the world's marine environment.

STATEMENT BY AMBASSADOR DONALD L. MCKERNAN, ALTERNATIVE REPRESENTATIVE OF THE U.S. COMMITTEE ON THE PEACEFUL USES OF THE SEABED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION—SUBCOMMITTEE III, JULY 20, 1973

Mr. Chairman, throughout these negotiations, my delegation has emphasized the contributions of scientific research to mankind's knowledge not only of the marine environment but indeed of the earth on which we live. Marine science has led to a better understanding of the environmental consequences of marine pollution, the geology of the seabed, the interaction of the ocean and the atmosphere, the productivity of the living resources of the oceans, the ocean's chemical composition, and a vast array of knowledge of importance to mankind as a whole. In fact, our present knowledge of the manganese nodules of such importance today to the deliberations of the Seabeds Committee is the product of scientific research beginning with their discovery over one hundred years ago by the research vessel H.M.S. CHALLENGER. We shall have failed in our obligation to generations unborn if by our actions we preclude similar discoveries which may be of importance in the future.

As with virtually every issue before the Seabeds Committee, the question of scientific research in the sea requires an accommodation of the interests of the international community and the coastal State. An immutable characteristic of the oceans is that its processes recognize no jurisdictional boundaries. Ideally, therefore, a more complete understanding of such oceanic processes could be obtained if marine scientists were free to carry out scientific research anywhere in the seas without restraint or restrictions. Balanced against this interest, however, are the legitimate rights and interests of the coastal States. In the draft articles on scientific research being presented today, there is a reasonable balance of interests which will encourage continued research in the marine environment. I should like to comment briefly on some of these draft articles.

Article 1 states that preservation and enhancement of the sea as well as its rational and effective use requires greater understanding which can only be obtained through scientific research. States, therefore, should promote and facili-

tate the conduct of scientific research for the benefit of the international community. This article also affirms the principle that all states, irrespective of location, as well as appropriate international organizations may engage in the conduct of scientific research and requires that such research be conducted in a manner which recognizes the rights and interests of coastal States and the international community, particularly the interests and needs of developing countries.

Article 3 requires that scientific research be conducted with strict and adequate safeguards for the protection of the marine environment. Much of the knowledge derived from scientific research is presently being applied to protect the ecology of the oceans and all agree that more knowledge is necessary to enable us to better understand the effects of our actions upon this community environment. Scientists as a group certainly recognize that their research must be conducted in a manner that avoids adverse effects on the ecology of the oceans. Although we believe that most scientific research does not create environmental harm, we do believe that States whose nationals conduct scientific research have an obligation to ensure that such research complies with all applicable international environmental standards.

Article 5 similarly is based on paragraph 10 of the Declaration of Principles adopted by the UN General Assembly in 1971. It calls upon all States to promote international cooperation in scientific research. One of the most effective means of disseminating knowledge and increasing mutual understanding of problems and needs is through cooperative programs, both bilateral and multilateral. The United States has actively supported many cooperative international programs. For example, the International Indian Ocean Expedition was a multilateral cooperative program sponsored by UNESCO/IOC which provided significant information about this relatively unstudied body of water. The deep-sea drilling conducted by the GLOMAR CHALLENGER, initiated by the United States through the National Science Foundation, has become an element of support for the International Decade of Ocean Exploration. In this program, the United States actively encourages other countries to assist in the conduct of the research and analysis of the samples and readily disseminates research results to interested scientists, irrespective of nationality. The U.S. Government as well as our academic institutions have bilateral programs with many countries in Africa, Latin America, Asia and elsewhere.

Another way in which knowledge obtained from scientific research is disseminated is through effective publication of research programs through international channels. Many programs presently exist where the results of research are disseminated through international channels. Examples of such programs are the World Data Centers, Food and Agricultural Organization programs, and those of the Intergovernmental Oceanographic Commission of UNESCO. Through broadening of such programs, we can insure that scientific research will benefit all of the international community.

With respect to strengthening the scientific research capabilities of developing countries, I would like to quote from my statement of August 11 of last year when my Government stated its willingness, in principle, "to commit funds to support multilateral efforts in all appropriate international agencies with a view towards creating and enlarging the ability of developing states to interpret and use scientific data for their economic benefit and other purposes; to augment their expertise in the field of marine science research; and to have available scientific research equipment including the capability to maintain and use it." We reiterate our willingness today.

When making that statement, I solicited on an urgent basis concrete proposals for making progress in this area. I would hope that in the current debate on the transfer of research technology we will hear of some ideas on this subject. While continuing our solicitation for concrete proposals, we would propose that attention be focused on multilateral efforts to establish regional training centers in marine science. During the period that developing country capabilities are being strengthened, international mechanisms should be established to assist developing countries in assessing the implications for their interests of scientific research data and results. As I shall explain later, we have proposed that the flag state of the research vessel be obligated to assist the coastal State in interpreting data and results when scientific research is conducted in areas beyond the territorial

sea where the coastal state exercises jurisdiction over seabed resources and coastal fisheries.

The United States intends to continue the cooperative efforts to which I have referred, and Article 5 is designed to provide a basis for further and expanded international cooperation in this field.

Article 6 recognizes that the territorial sea is an area in which the coastal State has rights and interests which have long been recognized in international law. Coastal States in the exercise of their sovereignty, therefore, should have the right to approve or reject the conduct of scientific research in their territorial seas. However, to obtain more complete understanding of the oceans for the benefit of mankind as a whole, coastal States should cooperate in facilitating scientific research in their territorial sea. Research cruises often are conducted at vast distances from the homeport of the research vessel. Coastal States, therefore, should promote the conduct of scientific research by facilitating access by research vessels to their ports. Such cooperation would enable the vessel to take on board needed supplies and equipment, offload data and samples for transshipment to laboratories for study and analysis, and conduct such other activities as may be necessary to support the research program. None of this would derogate from the sovereignty of the coastal State.

Article 7 addresses scientific research conducted in areas beyond the territorial sea where the coastal fisheries. It appears that the agreed limits of national jurisdiction over seabed resources may be rather broad. Similarly, under the U.S. and other fisheries proposals, there would be fairly extensive coastal areas in which the coastal State would exercise jurisdiction over resources. Were the conduct of scientific research in these vast areas of the ocean to be seriously impaired, mankind's future knowledge and understanding of the oceans would be severely curtailed. On the other hand, we believe that the legitimate economic interests of the coastal State can be protected without creating a regime which restricts scientific inquiry.

This article sets forth seven obligations on the State of the researcher. I would like to elaborate on these important obligations which we believe protect coastal State interests yet permit the maximum accumulation of knowledge for the benefit of mankind.

In order for the coastal State to meaningfully participate in the research, notification given the coastal State should include sufficient details of the research so that the coastal State may better evaluate its desire to take part in the research project. Such notification should include a description of the research project and information to facilitate coastal State participation or representation in the research. This notification should be given well in advance of the proposed research project. As cruise planning proceeds, as more specific information becomes available, or as modifications are required, additional notifications should be given the coastal State.

After receipt of notification, the coastal State should of course inform the notifying State of its contemplated participation to allow the researcher adequate time to take into account such participation.

At its option, the coastal State could participate in the research project directly or through an international organization. For example, as part of the effort to expand international participation in and benefit from research, it may be possible to establish a mechanism by which coastal States could draw upon an international organization for assistance in participating in a research project and in understanding the implications of the research for its interests.

We entirely agree that all data and samples desired by the coastal State should be shared with it. Where data is already generated and copying facilities are available, this could be accomplished before the vessel left the area. Of course, data generated in the laboratory once the vessel returned would also be made available. Similarly, some samples can be shared immediately, while others may require additional time to provide the coastal State and the researcher with samples whose scientific value are maintained. For example, a single rare biological specimen obviously should be carefully handled and preserved, and clearly cannot be split into two.

We realize that merely making the data and samples available to the coastal State may not be meaningful and that assistance may be required in interpreting the data and the results of the research. Often, the data will have implications for the coastal State that the researcher is unaware of or uninterested in. Under

our proposal, there is an obligation upon the flag State to assist the coastal State in assessing the implications of the data and results for its interests. Alternatively, the program we envisage, pursuant to Article 5, could provide the mechanism for assisting the coastal State in the interpretation of the practical implications of the research.

We also propose that the flag state certify that the research is being conducted by a qualified institution with a view to purely scientific research. Furthermore, we propose that the researcher be required to publish the significant research results as soon as possible in an open and readily available scientific publication and supply a copy directly to the costal State. Only through such publication can the knowledge obtained truly benefit all mankind. Finally, the article requires compliance with all applicable international environmental standards. Research vessels should comply with those environmental standards applicable to vessels generally, as well as any that may apply specifically to research.

Article 8 provides for compulsory settlement of any disputes that may arise from the interpretation or application of these provisions. Thus, there would be available to the coastal State a means to censure that States with vessels engaged in research in areas defined in Article 7 comply with their obligations, including each of the specific obligations to protect coastal State interests that I have discussed. It must be emphasized that all nations have a common interest in reaching agreement on a Law of the Sea Convention which will minimize uncertainty and peacefully resolve disputes among nations. As we have already pointed out in other subcommittees, should there be no general system of compulsory dispute settlement, the United States could not accept many of the proposals that we have advanced in an attempt to achieve an accommodation of interests. Our purpose after all is not merely to create a set of abstract rights and obligations, but to establish a system which will make these rights and obligations meaningful by ensuring their compliance. The success of the legal system for the oceans which we are here attempting to negotiate, in our view, will depend to a great extent on the kind of dispute settlement mechanism which we adopt.

We believe that the regime we propose in these articles gives science and scientists an opportunity to investigate ocean phenomena to the fullest. In turn, it accommodates the international community interest in obtaining greater knowledge of the marine environment and at the same time ensures respect for and protection of the rights and interests of the coastal States. We recognize that some of the provisions of these draft articles on the conduct of research in the oceans may require further elaboration. We anticipate a fruitful discussion of these articles and others, and welcome all suggestions to make these articles and the concepts contained in them reflect the interests of the world scientific community, coastal States, and the international community.

United States of America—Draft Articles for a Chapter on Marine Scientific Research

ARTICLE 1

Scientific research in the sea being essential to an understanding of global environment, the preservation and enhancement of the sea and its rational and effective use, States shall promote and facilitate the development and conduct of all scientific research in the sea for the benefit of the international community. All States, irrespective of geographic location, as well as appropriate international organizations may engage in scientific research in the sea, recognizing the rights and interests of the international community and coastal States, particularly the interests and needs of developing countries, as provided for in this Convention.

ARTICLE 2

Scientific research shall be conducted with reasonable regard to other uses of the sea, and such other uses shall be conducted with reasonable regard to the conduct of scientific research.[1]

[1] A general treaty article on the subject of accommodation of uses dealing with all uses of the sea might be included in the general articles of the Law of the Sea Convention. This could obviate the need for a specific article for each use, such as that suggested above for scientific research, that prepared as Text 17 of the texts dealing with principles for the seabed areas beyond the limits of national jurisdiction (A/AC.138/SC.1/L.22, Apr. 4, 1973) or that included in art. 2, ¶ 2, of the Convention on the High Seas.

ARTICLE 3

Scientific research shall be conducted with strict and adequate safeguards for the protection of the marine environment.[2]

ARTICLE 4

Scientific research activities shall not form the legal basis for any claim to any part of the sea or its resources.[3]

ARTICLE 5

States shall promote international cooperation in scientific research exclusively for peaceful purposes:

(*a*) by participating in international programs and by encouraging cooperation in scientific research by personnel of different countries;

(*b*) through effective publication of scientific research programs and dissemination of the results of such research through international channels and promotion of the flow of scientific research to developing countries;

(*c*) through measures to strengthen scientific research capabilities of developing countries, including assistance in assessing the implications for their interests of scientific research data and results, the participation of their nationals in research programs, and education and training of their personnel.

ARTICLE 6

Coastal States in the exercise of their sovereignty shall cooperate in facilitating the conduct of scientific research in their territorial sea and access to their ports by research vessels.

ARTICLE 7

In areas beyond the territorial sea where the coastal State exercises jurisdiction pursuant to Articles—over seabed resources and coastal fisheries, States and appropriate international organizations shall ensure that their vessels conducting scientific research shall respect the rights and interests of the coastal State in its exercise of such jurisdiction, and for this purpose shall:

(*a*) provide the coastal State at least — days advance notification of intent to do such research, containing a description of the research project which shall be kept up to date;

(*b*) certify that the research will be conducted in accordance with this Convention by a qualified institution with a view to purely scientific research;

(*c*) ensure that the coastal State has all appropriate opportunities to participate or be represented in the research project directly or through an appropriate international institution of its choice; the coastal State shall give reasonable advance notification of its desire to participate or be represented in the research within — days after it has received notification;

(*d*) ensure that all data and samples are shared with the coastal State;

(*e*) ensure that significant research results are published as soon as possible in an open readily available scientific publication and supplied directly to the coastal State;

(*f*) assist the coastal State in assessing the implications for its interests of the data and results directly or through the procedures established pursuant to Article 5;

(*g*) ensure compliance with all applicable international environmental standards, including those established or to be established by [insert name or names of appropriate organizations].

ARTICLE 8

Any dispute with respect to the interpretation or application of the provisions of this Chapter shall, if requested by either party to the dispute, be resolved by the compulsory dispute settlement procedures contained in Article —.

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[2] The need for and wording of the article might be further considered in the light of the draft articles prepared by the Working Group on marine pollution.

[3] There may be merit in the inclusion of an article in the general articles of the Law of the Sea Convention to the effect that no claims to any part of the sea can be made except as specifically provided in the Convention. This could obviate the need for a specific article for each use of the sea (see e.g. Texts 4 and 11 of the draft seabed articles prepared by the Working Group of Subcommittee I; Article 2 of the U.S. draft seabeds treaty).

STATEMENT BY AMBASSADOR DONALD L. MCKERNAN, ALTERNATIVE REPRESENTATIVE OF THE U.S. COMMITTEE ON THE PEACEFUL USES OF THE SEABED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION—SUBCOMMITTEE III, JULY 20, 1973

Mr. Chairman, my delegation believes that all nations benefit from scientific research in the sea. However, methods must be developed to assist all nations in obtaining the technical knowledge necessary to profit more directly from scientific research. Although there are no doubt a variety of ways in which this knowledge can be transferred to those countries which need and can use such knowledge, we believe that this transfer of scientific knowledge can be accomplished most meaningfully through a two-stage process.

First, developing countries should receive assistance in interpreting data about marine areas of concern to them in a manner that is relevant to their interests.

Second, means must be devised to provide the technical capability for all countries not only to interpret the data for themselves but also to actually engage in scientific research in the marine environment.

Before elaborating on these concepts, I should like to review briefly proposals which we have made thus far to the Seabeds Committee concerning the transfer of technical nowledge and information from scientific research.

The draft seabeds treaty which my delegation tabled before the Seabed Committee in 1970 includes several provisions on technical training and assistance to developing countries. Article 5 of this draft treaty provides that a portion of the revenues derived from exploitation of the International Area should be used "through or in cooperation wtih other international or regional organizations, to promote development of knowledge of the International Seabed Area and to provide technical assistance to Contracting Parties or their nationals for these purposes, without discrimination."

Article 40 of our 1970 draft seabeds treaty elaborates upon the means by which the International Authority itself should assist in the development and transfer of technical knowledge through international or regional centers.

Similarly, Article 62 of our draft seabeds treaty imposes an obligation on the Secretary-General of the Authority to "collect. furnish and disseminate information which will contribute to mankind's knowledge of the seabed and its resources." Thus, three years ago the United States recognized the need for development and transfer of technical knowledge and made specific provisions for this in our draft seabed treaty. We continue to believe that this need must be met as part of the overall Law of the Sea settlement.

However, we also recognize that it may be some time before the International Authority will have the financial capability to devote funds to development and transfer of technical knowledge.

Thus, in a statement before this Subcommittee on August 11 of last year we stated our willingness, in principle, "to commit funds to support multilateral efforts in all appropriate international agencies with a view towards creating and enlarging the ability of developing states to interpret and use scientific data for their economic benefit and other purposes; to augment their expertise in the field of marine science research; and to have available scientific research equipment including the capability to maintain and use it." In that statement, we emphasized that these funds would be in addition to financial efforts by the International Authority. We reemphasize our willingness today to participate in such funding.

In making this statement, we solicited on an urgent basis concrete proposals for making progress in this area. Our delegation has given much serious thought to improvements in sharing technical knowledge in the area of scientific research. While continuing our solicitation for concrete proposals, we would also like to share with the Subcommittee some of our thoughts on this matter.

As I indicated at the beginning of my remarks, we believe that assistance in interpretation of data can be a valuable first step in the process of fuller utilization of scientific research. We would propose that States honor the commitment to support international cooperation in marine science set forth in the General Assembly Resolution on Principles Governing the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, adopted by the General Assembly in December of 1970 and incorporated into Article 24 of our draft seabeds treaty. In honoring this commitment, States should move to establish within an appropriate international organization a mechanism whereby a coastal State could seek assistance for interpreting data and samples obtained from scientific

research conducted in areas where the coastal State exercises jurisdiction over seabed resources and coastal fisheries. We believe that when scientific research is conducted in these areas, the coastal State should have a right to participate or be represented in the research and that all desired data and samples should be shared with the coastal State. As with interpretation of data, it should be possible for the coastal State to obtain assistance from an international or regional organization in participating in the scientific research on behalf of the coastal State. The coastal State could thus determine the priorities for the scientists participating on its behalf in the research project. Similarly, the international or regional organization could assist the coastal State in analysis of the scientific data from the prespective of the coastal State.

I would hasten to add some caveats to this proposal. Not all scientific research projects generate data which have direct relevance to coastal State economic interests and the data may not be in a form that is usable for more than one purpose. The assisting international or regional organization could assist the coastal State in determining whether particular scientific data have such direct relevance.

Assistance in interpretation and participation should constitute a satisfactory interim solution until all coastal States acquire the ability to interpret the data, participate in the research project and ultimately conduct scientific research themselves. Such capabilities obviously can only come about through specialized education and training in marine sciences.

This education and training should not be provided exclusively in educational institutions in the developed countries but also in the country or region most directly affected. This would ensure that the training reflects the priorities, interests and needs of the developing States. We believe that it would be virtually impossible to establish institutions for training in every developing country, but it may be feasible to establish regional training centers. Thus, regional training centers, as has been suggested by other speakers, may be the best solution to the problem.

To make such regional facilities effective, there must be commitments of support not only by developed countries but also by developing countries which utilize the facilities. Such commitment should insure effective utilization of the scientists and technicians trained.

In closing, I want to emphasize that the United States Government continues to support efforts to increase the scientific and technical capabilities of developing countries. The transfer of marine scientific research capability is directly related to the continued contributions of marine science to the international community. We encourage broad discussions on these issues in finding prompt and effective means for achieving all these objectives.

Working Paper on Competence to Establish Standards for the Control of Vessel Source Pollution—Presented by the United States of America

I. SOURCES OF MARINE POLLUTION

There are many sources of pollution of the marine environment including outflow from rivers and outfall structures, atmospheric transport of pollutants from land, natural seepage, offshore mineral development activities, vessel oil discharge and the introduction of oil and other cargoes into the oceans from vessels due to collisions and other maritime casualties.

Land-based sources provide the largest quantities of pollutants to the marine environment. Land-based pollutants include riverborne substances from domestic sewage, industrial wastes and agricultural run-off, air-borne pollutants such as vaporized hydrocarbons, and direct discharges of sewage and other wastes from coastal communities. With regard to petroleum, for example, land-based sources account for an estimated 50 to 90 percent of the estimated total of 2 to 5 million metric tons of oil which enter the oceans annually.[1] There are

[1] "Marine Environmental Quality," National Research Council, (National Academy of Sciences, August 1971) : "Man's Impact on the Global Environment—Report of the Study of Critical Environmental Problems (SCEP)," (Massachusetts Institute of Technology, 1970). "Tankers and Ecology," *Transportation,* vol. 79, (Society of Naval Architects and Marine Engineers, 1971).

significant quantities of oil entering the marine environment from air-borne hydrocarbons which are very difficult to detect and measure (and which may be considerably larger than the entire total shown above). Although international cooperative efforts such as the Stockholm Conference on the Human Environment and the London Conference on Ocean Dumping have begun to deal with these problems, further work is urgently needed to ensure effective protection on the oceans. The United States shares the view, however, that the Seabed Committee does not have the expertise to deal adequately with the technical aspects of these complex problems. While the general undertaking relating to all sources of marine pollution can be fruitfully discussed here, the specific problems involved in controls in land-based sources raise many issues of a very different order from those that will be discussed at the Law of the Sea Conference.

A second source of pollutants to the marine environment is the natural seepage of oil from the seabed. The amount of pollution from such natural seepage is not known although there is some evidence that it may be significant. There is, of course, no known method of controlling this source and it is thus not dealt with in this paper.

A third source is pollution from seabed mineral development. Such activities provide a small percentage of total marine pollution. For example, it is estimated that the predominant seabed resource activity of oil development produces less than 2 percent of the oil pollution of the oceans. If only maritime sources are considered, seabed activities make up about 5 percent of ocean oil pollution with vessels accounting for the other 95 percent.[2] Of course, seabed exploitation will intensify, and the United States has presented specific draft treaty articles for a regime and machinery to deal with pollution from the deep seabed as well as on the continental margin.

A fourth principal source of pollution to the marine environment is pollution from vessels. Such vessel source pollution has been a principal focus of this Subcommittee's work.

II. VESSEL SOURCE POLLUTION

Vessels introduce pollutants into the marine environment in three principal ways—through oil and other cargoes entering the water due to collisions or other maritime casualties, through loading, unloading and bunkering operations, and through the intentional operational discharge of oil. There are, of course, other pollutants released from vessels such as sewage and garbage but these do not present problems of the same magnitude (there are international efforts underway to develop technical means of control for such pollutants).

A. Collisions and Other Maritime Casualties

Most casualties occur in congested areas in internal waters, at port entrances or in heavily traveled shipping lanes close to the coast. Thus, individual states can and should act effectively to reduce pollution from such incidents by the provision of adequate navigational aids, warnings of dangers to navigation and other assistance to the mariner to ensure that collisions, groundings and other casulties are minimized. Also, such international actions as provision of compulsory traffic separation schemes in congested areas, and requiring double-bottom construction for large tankers, as proposed by the United States in these and IMCO negotiations, can assist in solving these problems.[3] In addition, authority to take remedial action is given to coastal states in the Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (which is presently being revised to expand it to cover other substances in addition to oil). Oil spills resulting from casualties contribute about 10 percent of vessel source oil pollution,[4] and methods for preventing such spills must continue to be developed.

B. Loading and Bunkering Operations

It is estimated that approximately 5 to 10 percent of vessel source oil pollution is caused by spills occurring during bunkering and loading operations.[5] This source of pollution is being reduced through provision of automatic loading controls on large tankers and improved personnel training. Also, significant advances are being made in the development of new techniques to clean up spills.

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[2] "Tankers and Ecology," *supra* note 1
[3] Ibid.
[4] Ibid.
[5] Ibid.

Many ports are now providing the equipment and personnel to deal rapidly and effectively with such spills but continuing efforts are needed by maritime and port states.

C. Operational Discharges

The major source of vessel pollution is the intentional operational discharge of oily wastes from commercial vessels. Operational discharge is due to the pumping of oily bilge wastes, tanker ballasting operations, and the cleaning of tanker cargo tanks prior to a change in the type of cargo or prior to overhaul. Such discharges are estimated to account for approximately three-fourths of all pollution from vessels, with tank washings and ballasting providing about twice as much oil pollution as bilge pumping.[6]

After discharging a cargo of oil, a tanker must take aboard seawater in her cargo tanks for use as ballast to facilitate handling in port and to provide proper seakeeping characteristics. For example, safe navigation requires ballast of approximately 40 percent of dead weight tonnage under normal conditions and as much as 80 percent in extreme weather conditions. Since some oil remains in the tanks by adhering to the tank surface, the ballast water will mix with that residue and become "oily." As the tanks must be empty before a new cargo of oil can be taken aboard, the oily ballast water is disposed of in one of two ways—direct discharge at sea or separation of the oil and its retention on board under the "load-on-top" system. In tankers structurally equipped for "load-on-top", the tanks are washed with sea water which is then collected in a slop tank (the other tanks are then clean and can take on water for ballast). During the ballast voyage the oily water in the slop tank slowly separates into a layer of oil and a layer of water, after which the water can be discharged. A new cargo can then be loaded on top of the retained oil or the retained oil can be discharged into a shore reception facility. This procedure is not fully effective since settling is affected by turbulent sea conditions and other factors and since some voyages are simply not lengthy enough for the process to be completed, but it is estimated that the system is 80 percent effective. Although "load-on-top" tankers carry three-fourths of the oil transported by sea, they produce only about one-fourth of the operational oil discharge due to ballasting and tank cleaning.[7]

Solutions to the tanker ballast and tank cleaning problems to be considered in the Conference on Marine Pollution to be held in London in October of this year include:

(1) Construction of large tankers with sufficient "segregated ballast spaces, preferably through double bottom construction, to eliminate the need normally to put ballast water into cargo tanks; and

(2) Providing all other tankers with "load-on-top" facilities.

Construction of on shore facilities to receive all oily residues would be required as a part of both of these solutions.

The United States recently prepared a study analyzing the effectiveness of "segregated ballast" tankers.[8] It was found that segregated ballasting would eliminate approximately 95 percent of the oil pollution from operational discharge. The other 5 percent would result from the cleaning of tanks before undergoing repairs and before changes in type of cargo and from washing tanks to alleviate sludge buildup during normal operations. This 5 percent would need to be handled by provision of shore reception facilities.

For existing tankers and for small new tankers not constructed with segregated ballast facilities, load-on-top would be required under the proposed 1973 Marine Pollution Convention. One method would be to retain the oily waste on board for discharge to shore facilities and another would be for a very low rate of discharge of small amounts of oil at sea. In certain special areas, where port states are prepared to undertake the necessary obligations, such as the Mediterranean, the draft Convention provides that the contracting littoral states will establish shore reception facilities to receive *all* oily wastes and prohibits any discharges at sea in such areas. In other areas, limitations would allow only a rate and amount of discharge at sea that would not produce any visible sign of oil. Shore facilities would be provided to receive the remaining residues.

With respect to oily bilge water (which produces almost one-third of operational discharge), the draft Convention for the 1973 Marine Pollution Confer-

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[6] Ibid.

[7] Ibid.

[8] "Segregated Ballast Tankers Employing Double Bottoms." (A supporting document to IMCO DE VIII/12 MP KIV/3(e) submitted by the United States.)

ence contains requirements which would severely limit discharge. These restrictions are identical to those set out immediately above relating to retention on board or minimum discharge and would apply to all or most commercial vessels.

The draft Convention also provides for the maintenance of an oil record book. All major operations such as shifting of cargo, discharges, tank cleaning, etc., would be required to be recorded in the book which will be open to inspection by flag or port state authorities.

III. THE NEED FOR AN INTERNATIONAL SOLUTION

A fundamental objective of the Law of the Sea Conference is to reach agreement on effective measures which will protect the marine environment. This objective is shared by all nations. Another fundamental objective, shared by all nations, is protection of the freedom of navigation—an objective which is vital for international trade, communication and peaceful relations among nations.

A principal issue in the consideration of standards to control vessel source pollution is the authority to establish standards which will eliminate or minimize environmental damage caused by vessels. Only a system of exclusively international standards will provide an effective means to control vessel source pollution while protecting the community interest in both of these fundamental objectives. There are at least five principal reasons which support exclusively international standards.

First, the international community has basic interests which should be represented in the formulation of such standards. One basic concern, of particular interest to coastal states, is to protect the marine environment from pollution. A second basic concern, of particular interest to exploring states, importing states, and maritime states, is the avoidance of unnecessary increases in transportation costs. Participation by these concerned states in the establishment of standards will ensure that a proper balance is maintained.

On the other hand, if coastal states were to be given the authority to establish standards by themselves, such standards might not adequately reflect either the interests of existing maritime states or the developing states as they become maritime nations or the interests of the internaional communiy in effective protection of the marine environment.

Second, because of the difficulty or impossibility of a vessel complying with several sets of different, and possibly inconsistent standards, there should be a single set of uniform standards observed by all states. Although vessels utilizing major ocean routes pass close to shore for only a fraction of a normal voyage, they could be subject to many separate sets of standards if coastal states were authorized to establish standards in an area adjacent to the territorial sea. For example, on a voyage from the Persian Gulf to Europe, a heavily traveled oil transport route, a vessel might be subject to as many as fifteen different sets of standards. Since compliance with differing standards would be difficult and costly, vessels may try to avoid these areas, if possible, thus increasing voyage length and time. Avoidance of these areas might even force a vessel into a different load line area, thus requiring a lighter cargo load. The result would be higher shipping costs, which in the end would be passed on to producers and consumers. A legal regime which accords coastal states the authority to supplement international standards does not avoid these problems. Moreover, it should be kept in mind that the higher costs associated with divergent standards will not necessarily result in improved protection for the marine environment.

Third, exclusively international standards are required for effective protection of the full marine environment. Since ocean currents carry some amounts of pollution from one ocean area to another and from far offshore to inshore areas, individual coastal state standards could not as effectively reduce such pollution. All of the principal oceans have major currents flowing generally from one continent to another and across broad expanses of open ocean. To demonstrate the magnitude of these currents, the major North American current system washes the shores of 23 coastal states of Africa, South America, North America and Europe. In crossing any major oceans, ships will encounter one or more of these major currents and may discharge oil into them many miles from shore. Inshore currents may carry quantities of oil onto beaches and inshore areas hundreds of miles away from the point of discharge. Because of the size of the areas and the distances involved, individual coastal state pollution control standards cannot possibly cope with the entire problem. Moreover, individual coastal state standards may simply transfer the effects of pollution from one state to another. Such a transfer could add to friction between nations and would not meaning-

fully contribute to the protection of the marine environment. Certain areas, of course, may require special measures for effective protection. Such measures, however, could and should be internationally established.

Fourth, an exclusively international approach is better able to respond to changes in the technology for the control of pollution and to new knowledge about threats to the marine environment. Our concern, of course, must be protection of the entire marine environment. In meeting that concern, it is far more efficient to continually update one set of international standards than to alter over 100 national standards. Moreover, an international approach provides a focus for utilizing the expertise of all nations in establishing international standards.

Fifth, concerns regarding economic advantage and disadvantage among states are increasingly evident in attempts to deal effectively with environmental problems. Individual states may fear the economic effects on themselves of imposing environmental controls that others may not impose. A system of exclusively international standards would largely eliminate these competitive economic concerns and would encourage a willingness to impose higher standards on an agreed basis.

IV. SUMMARY

Standards for the control of vessel source pollution must effectively protect the fundamental environmental and navigational interests of all nations. If authority to establish such standards were given to coastal states, whether such authority were exclusive or only supplemental, there could be no assurance that adequate account would be taken of the need to accommodate such interests. There could also be no assurance that such standards would effectively serve either interest. This does not mean that special standards could not be established to deal with the problems of special areas, but such standards should be established internationally. The global nature of the marine pollution problem requires that solutions to this problem, as with other international problems, must be international.

U.S. Delegation to July-August Seabed Meetings

His Excellency Vittorio Winspeare Guicciardi,
Director General, Office of the United Nations,
Palais des Nations, Geneva.

Dear Mr. Director General: I refer to my letter which was delivered to your office on July 3, 1973 transmitting the names of the delegation to the Meeting of the Committee on the Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, which is scheduled to meet in Geneva from July 2 to August 24, 1973:

This is to advise you of a change in titles of John Norton Moore and Donald L. McKernan, as follows:

Professor John Norton Moore, Chairman, Interagency Task Force on Law of the Sea, Washington, D.C.

Ambassador Donald L. McKernan.

Sincerely,

Jules Bassin,
Charge d'Affaires, a.i.

[This letter prepared on authority verbal instructions of Mr. S. McIntyre Seabeds Cmte USDEL. Dept. of State did not authorize Amb title for Mr. McKernan.]

July 10, 1973.

His Excellency Vittorio Winspeare Guicciardi,
Director General, Office of the United Nations,
Palais des Nations, Geneva.

Dear Mr. Director General: I refer to my letter dated July 6, 1973, listing the names of additional experts to be accredited as members of the United States Delegation to the Meeting of the Committee on the Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, which is currently meeting in Geneva.

Will you please note that Mr. Lowell Wakefield will be attending this meeting from July 2 to 27, 1973.

Sincerely yours,

Jules Bassin,
Charge d'Affaires, a.i.

JULY 3, 1973.

His Excellency VITTORIO WINSPEARE GUICCIARDI,
Director General, Office of the United Nations,
Palais des Nations, Geneva.

DEAR MR. DIRECTOR GENERAL: By direction of the Secretary of State, I have the honor to inform you that the United States will be represented by the following delegation to the Meeting of the Committee on the Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, which is scheduled to meet in Geneva from July 2 to August 24, 1973:

Representatives

The Honorable John R. Stevenson (Chairman), Special Presidential Representative for the Law of the Sea Conference, Washington, D.C.

John Norton Moore (Vice Chairman), Counselor on International Law, Office of the Legal Adviser Department of State, Washington, D.C.

Alternate Representatives

Martin F. Herz, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State, Washington, D.C.

The Honorable Donald L. McKernan, Coordinator of Ocean Affairs and Special Assistant to the Secretary for Fisheries and Wildlife, Department of State, Washington, D.C.

Congressional Staff Adviser

Merrill England, Administrative Assistant, United States Senate, Washington, D.C. (July 2–20, 1973).

Advisers

John P. Albers, Associate Chief Geologist, United States Geological Survey, Department of the Interior, Washington, D.C.

Paul Ake, Commander, U.S.N., Legal Adviser, International Negotiations, Office of the Joint Chiefs of Staff, Department of Defense, Washington, D.C.

William W. Behrens, Jr., Vice Admiral, U.S.N., Assistant Deputy Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.

Burdick H. Brittin, Deputy Coordinator of Ocean Affairs and Special Assistant to the Secretary for Fisheries and Wildlife, Department of State, Washington, D.C.

James Brown, Commander, U.S.C.G., Office of the Chief Counsel, United States Coast Guard, Department of Transportation, Washington, D.C.

David Cook, Office of the General Counsel, Council on Environmental Quality, Executive Office of the President, Washington, D.C. (July 2–20, 1973).

John A. Dugger, Office of the Assistant Secretary of Defense for International Security Affairs, Department of Defense, Washington, D.C.

W. Pierce Elliott, Assistant Solicitor for International Marine Minerals, Department of the Interior, Washington, D.C.

Otho E. Eskin, Bureau of International Organization Affairs, Department of State, Washington, D.C.

Stuart P. French, Director, Law of the Sea Task Force, Department of Defense, Washington, D.C.

Jon Hartzell, Director, Trade Negotiations, Department of the Treasury, Washington, D.C.

Terry L. Leitzell, Office of the Assistant Legal Adviser for Ocean Affairs, Department of State, Washington, D.C.

Stuart H. McIntyre, Deputy Director, Office of United Nations Political Affairs, Bureau of International Organization Affairs, Department of State, Washington, D.C.

Robert E. McKew, Commander, U.S.C.G., United States Mission to the United Nations, New York.

Nations, New York, N.Y.

Myron H. Nordquist, Office of the Assistant Legal Adviser for Ocean Affairs, Department of State, Washington, D.C.

Bernard Oxman, Assistant Legal Adviser for Ocean Affairs and Special Assistant to the Special Presidential Representative for the Law of the Sea Conference, Department of State, Washington, D.C.

Basil Petrou, Department of the Treasury, Washington, D.C.
The Honorable Howard W. Pollock, Deputy Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.
Leigh S. Ratiner, Director for Ocean Resources, Department of the Interior, Washington, D.C.
Horace B. Robertson, Rear Admiral, U.S.N., Deputy Judge Advocate General of the U.S. Navy, Department of Defense, Washington, D.C.
Philip M. Roedel, Coordinator, Marine Recreation Programs, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.
Louis B. Sohn, Consultant to Inter-Agency Law of the Sea Task Force, Washington, D.C.
George Taft, Office of the General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.
Ms. Rebecca Wright, Foreign Affairs Assistant, Office of the Director for Ocean Resources, Department of the Interior, Washington, D.C.
Norman A. Wulf, Special Counsel, Office of the General Counsel, National Science Foundation, Washington, D.C.
Paul A. Yost, Captain, U.S.C.G., Office of the Chief Counsel, United States Coast Guard, Department of Transportation, Washington, D.C.

Experts

Richard Greenwald, Deepsea Ventures, Incorporated, Gloucester Point, Virginia (July 5–22, 1973).
Richard A. Frank, Center for Law and Social Policy, Washington, D.C. (July 2–13, 1973 and July 30–August 24, 1973).
Anthony W. Smith, Attorney at Law, Washington, D.C. (July 10–27, 1973).
Thomas A. Clingan, Jr., Professor of Law, University of Miami, Coral Gables, Florida (July 2–16, 1973 and August 15–24, 1973).
Melvin A. Conant, Ocean Affairs Committee, Exxon Corporation, New York (July 16–August 8, 1973).
G. Winthrop Haight, Forsyth, Decker and Murray, New York (July 2–13, 1973).
William N. Utz, American Shrimp Association, Washington, D.C. (July 2–August 24, 1973).
Jacob Dykstra, Point Judith Fishermen's Cooperative, Naragansett, Rhode Island (July 24–August 2, 1973).
Walter Yonker, Executive Vice President, Association of Pacific Fisheries, Seattle, Washington (July 28–August 24, 1973).
Professor William Burke, University of Washington, Seattle, Washington (July 17–31, 1973).

Sincerely,

JULES BASSIN,
Charges d'Affaires, a.i.

JULY 6, 1973.

His Excellency VITTORIO WINSPEARE GUICCIARDI,
Director General, Office of the United Nations,
Palais des Nations, Geneva.

DEAR MR. DIRECTOR GENERAL: I refer to my letter which was delivered to your office on July 3, 1973, transmitting the names of the delegation to the Meeting of the Committee on the Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, which is currently meeting in Geneva.

Will you please add:

Experts

August Felando, General Manager, American Tunaboat Association, San Diego, California (July 2–23, 1973 and August 3–24, 1973).
Lowell Wakefield, Wakefield Seafoods, Incorporated, Port Wakefield, Alaska (July 2–3, 1973).
Robert Hallman, Environmental Defense Fund, Washington, D.C. (July 2–15, 1973).

Sincerely,

JULES BASSIN,
Charge d'Affaires, a.i.

JULY 17, 1973.

His Excellency VITTORIO WINSPEARE GUICCIARDI,
Director General, Office of the United Nations,
Palais des Nations, Geneva.

DEAR MR. DIRECTOR GENERAL: I refer to my letter which was delivered to your office on July 3, 1973, transmitting the names of the United States Delegates to the Meeting of the Committee on the Peaceful Uses of the Seabed and Ocean Floor beyond the Limits of National Jurisdiction, which is currently meeting in Geneva.

Will you please add:

Congressional Advisers

The Honorable Ernest F. Hollings, United States Senate, Washington, D.C. (August).
The Honorable Claiborne Pell, United States Senate, Washington, D.C. (August).
The Honorable Ted Stevens, United States Senate, Washington, D.C. (August 6–10).
The Honorable Thomas N. Downing, United States House of Representatives, Washington, D.C. (August 4–18).
The Honorable James R. Grover, United States House of Representatives, Washington, D.C. (August 19–24).
The Honorable McKay Fraser, United States House of Representatives, Washington, D.C. (August).
The Honorable William S. Mailliard, United States House of Representatives, Washington, D.C. (August).
The Honorable Joel Pritchard, United States House of Representatives, Washington, D.C. (August 13–26).
The Honorable Leonor K. Sullivan, United States House of Representatives (August 13–26).

Congressional Staff Advisers

Earle F. Costello, United States Senate Committee on Commerce, Washington, D.C. (August 6–10).
D. Michael Harvey, Special Counsel, United States Senate (August 13–24).
John F. Hussey, Staff Member, United States Senate (August 6–10).
David Keaney, Consultant, United States Senate (August).
Arthur Pankopf, United States Senate Committee on Commerce, Washington, D.C. (August 13–22).
David P. Stang, Staff Member, United States Senate, Washington, D.C. (August 13–24).
James P. Walsh, United States Senate Committee on Commerce, Washington, D.C. (August 13–22).

Advisors

John A. Busterud, Member of the Council on Environmental Quality, Executive Office of the President, Washington, D.C. (July 30–August 24).
Robert D. Hodgson, Director, Office of the Geographer, Bureau of Intelligence and Research, Department of State, Washington, D.C.

Experts

T. S. Ary, Vice President, Union Carbide Exploration Corporation, New York (August 16–24).
George A. Birrell, General Counsel, Mobil Oil Corporation, New York (August 6–11).
Marne Dubs, Director, Ocean Resources Department, Kennecott Copper Corporation, New York (July 23–August 5).
John E. Flipse, President, Deepsea Ventures, Incorporated, Gloucester Point, Virginia (August 6–15).
H. Gary Knight, Louisiana State University Law School, Baton Rouge, Louisiana (July 30–August 12).
Robert B. Krueger, Nossaman, Waters, Scott, Krueger and Riordan, Los Angeles, California (August 13–24).
Cecil J. Olmstead, Vice President, Assistant to the Chairman of the Board, Texaco, New York (August 12–24).

Sincerely,

JULES BASSIN,
Charge d'Affaires, a.i.

Avisory Committee on the Law of the Sea

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Mr. George A. Birrell, General Counsel, Mobil Oil Corporation, New York, N.Y.
Mr. Melvin Conant, Ocean Affairs Committee, Exxon Corporation, New York, N.Y.
Mr. G. Winthrop Haight, Forsyth, Decker & Murray, New York, N.Y.
Mr. Minor S. Jameson, Jr., Independent Petroleum Association of America, Washington, D.C.
Mr. William J. Martin, Jr., Standard Oil Building, San Francisco, California.
Mr. Byron E. Milner, Vice President, Products Division, Atlantic Richfield Co., Los Angeles, California.
Mr. Cecil J. Olmstead, Vice President, Assistant to the Chairman of the Board, Texaco, New York, N.Y.
Mr. Richard Young, Attorney and Counsellor at Law, Van Hornesville, New York.

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Mr. Willard Bascom, Chairman of the Board, Ocean Science and Engineering, Inc., Long Beach, California.
Mr. Seymour S. Bernfeld, Denver, Colorado.
Mr. Paul S. Bilgore, Assistant General Counsel, The Anaconda Company, New York, N.Y.
Mr. Marne A. Dubs, Director, Ocean Resources Department, Kennecott Copper Corporation, New York, N.Y.
Mr. John E. Flipse, President, Deepsea Ventures, Inc., Gloucester Point, Virginia.
Mr. George F. Mechlin, Vice President, Westinghouse Electric Corporation, Oceanic Division, Annapolis, Maryland.
Mr. John L. Shaw, International Nickel Co., Inc., Bellevue, Washington.

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Mr. John A. Redding, Continental Bank, Chicago, Illinois.
Mr. John G. Winger, Vice President, The Chase Manhattan Bank, N.A., New York, N.Y.

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Mr. Thomas Clingan, Jr., Professor of Law, University of Miami School of Law, Coral Gables, Florida.
Mr. Arthur H. Dean, New York, N.Y.
Mr. Richard L. Gardner, Henry L. Moses Professor of Law and International Organization, Columbia University School of Law, New York, N.Y.
Mr. Louis Henkin, Columbia University School of Law, New York, N.Y.
Mr. Philip C. Jessup, Norfolk, Connecticut.
Mr. H. Gary Knight, Louisiana State University Law School, Baton Rouge, Louisiana.
Mr. Robert B. Krueger, Nossaman, Waters, Scott Krueger & Riordan, Los Angeles, California.
Mr. John G. Laylin, Covington and Burling, Washington, D.C.
Mr. Myres McDougal, Yale Law School, New Haven, Connecticut.
Mr. Benjamin Read, Director, Woodrow Wilson International Center for Scholars, Smithsonian Institution Building, Washington, D.C.
Mr. Charles S. Rhyne, World Peace Through Law Center, Washington, D.C.
Mr. Dean Rusk, The University of Georgia School of Law, Athens, Georgia.
Mr. Louis B. Sohn, Bemis Professor of International Law, Law School of Harvard University, Cambridge, Massachusetts.

V. MARINE ENVIRONMENT SUBCOMMITTEE

Mr. Richard A. Frank, Center for Law & Social Policy, Washington, D.C.
Mr. Bostwick H. Ketchum, Associate Director, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.

Mr. Anthony W. Smith, Attorney at Law, Washington, D.C.
Mr. George M. Woodwell, Brooklyn National Laboratory, Biology Department, Associated Universities, Inc., Upton, Long Island, New York.

VI. FISHERIES SUBCOMMITTEE

Mr. Charles R. Carry, Executive Director, Tuna Research Foundation, Inc., Terminal Island, California.
Mr. J. Steele, Culbertson, Director, National Fish Meal & Oil Association, Washington, D.C.
Mr. Philip A. Douglas, National Wildlife Federation, Washington, D.C.
Mr. Jacob J. Dykstra, Point Judith Fishermen's Coop. Association, Point Judith, Rhode Island.
Mr. August J. Felando, San Diego, California.
Mr. Harold E. Lokken, Seattle, Washington.
Mr. Robert G. Mauermann, Executive Secretary, Texas Shrimp Association, Brownsville, Texas.
Mr. William R. Neblett, Executive Director, National Shrimp Congress, Inc., Key West, Florida.
Mr. John J. Royal, Secretary/Treasurer, Fishermen and Allied Workers' Union, Local 33 I.L.W., San Pedro, California.
Mr. Richard H. Stroud, Executive Vice President, Sport Fishing Institute, Washington, D.C.
Mr. Lowell Wakefield, Wakefield Seafoods, Inc., Port Wakefield, Alaska.
Mr. Leon John Weddig, Executive Director, National Fisheries Institute, Inc., Washington, D.C.
Mr. W. V. Yonker, Executive Vice President, Association of Pacific Fisheries, Seattle, Washington.

VII. MARINE SCIENCE SUBCOMMITTEE

Mr. William T. Burke, Professor of Law, University of Washington School of Law (Condon Hall), Seattle, Washington.
Mr. John C. Calhoun, Jr., Vice President for Academic Affairs, Texas A. & M. University, College Station, Texas.
Mr. L. Eugene Cronin, Research Professor & Director, University of Maryland Natural Resources Institute, Chesapeake Biological Laboratory, Solomons, Maryland.
Mr. Paul M. Fye, President, Woods Hole Oceanographic Institute, Woods Hole, Massachusetts.
Mr. Bruce C. Heezen, Lamont-Doherty Geological Observatory of Columbia University, Palisades, New York.
Mr. John A. Knauss, Provost for Marine Affairs, University of Rhole Island, Kingston, Rhode Island.
Mr. Roger Revelle, Richard Saltonstall Professor of Population Policy, Director of the Center for Population Studies, Cambridge, Massachusetts.
Mr. Warren Wooster, Scripps Institution of Oceanography, LaJolla, California.

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Mr. Emmett A. Humble, Humble Oil & Refining Marine Department, Houston, Texas.
Captain Warren G. Leback, Interstate Oil Transport Co., Six Penn Center Plaza, Philadelphia, Pa.

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UNITED NATIONS GENERAL ASSEMBLY—COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION, SUBCOMMITTEE II

ARCHIPELAGIC PRINCIPLES AS PROPOSED BY THE DELEGATIONS OF FIJI, INDONESIA, MAURITIUS AND THE PHILIPPINES

Explanatory Note

This paper is submitted by Fiji, Indonesia, Mauritius and the Philippines for consideration by this Committee with a view to the principles enunciated therein being incorporated into the convention on the Law of the Sea. These principles are designed to accommodate not only the interests of archipelagic States but also other States and of the international community as a whole. They contain the definition of an archipelagic State, rights over the waters of the archipelago, and the right of innocent passage for international navigation through the waters of the archipelago.

Principles

1. An archipelagic State, whose component islands and other natural features form an intrinsic geographical, economic and political entity, and historically have or may have been regarded as such, may draw straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago from which the extent of the territorial sea of the archipelagic State is or may be determined.

2. The waters within the baselines, regardless of their depth or distance from the coast, the sea-bed and the subsoil thereof, and the superjacent airspace, as well as all their resources, belong to, and are subject to the sovereignty of the archipelagic State.

3. Innocent passage of foreign vessels through the waters of the archipelagic State shall be allowed in accordance with its national legislation, having regard to the existing rules of international law. Such passage shall be through sealanes as may be designated for that purpose by the archipelagic State.

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